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Funding Status for E-Rate and ECF

E-Rate for FY 2022:

Wave 5 for FY 2022 was issued on Thursday, May 19th, for $98.1 million including $1.76 million for nineteen North Carolina applicants. Cumulative commitments to date are $1.52 billion including $34.1 million for North Carolina. Nationwide, USAC has funded 78.6% of the FY 2022 applications representing 48.1% of the requested funding.

A special extended application window for new Tribal libraries closes later this week on May 26th (see DA 22-231 and our newsletter of March 14th).

E-Rate for FY 2021:

Wave 55 for FY 2021 was issued on Wednesday, May 18th, for $2.3 million. Cumulative commitments stand at $2.63 billion including $84.2 million for North Carolina. Nationwide, USAC has funded 98.7% of the FY 2021 applications representing 95.4% of the requested funding.

ECF for 2021-2023:

ECF Wave 15, was released on Tuesday, May 17th for $50.2 million, none for North Carolina. As of Wave 15, total ECF commitments are $4.8 billion including $150 million for North Carolina. . Nationwide, USAC has funded 95.7% of filed applications. Authorized disbursements as of last Friday totaled $1.10 billion.

The third ECF application window closed on Friday, May 13th. We expect that an indication of funding demand will be available later this week. The FCC indicates that a minimum of $1 billion — our estimate is at least $2 billion — will be available to fund the same type of eligible equipment and services as in the original two windows but for delivery within the 18-month span from July

1, 2022, through December 31, 2023 (albeit capped at 12 months of service for recurring services). For details, see DA 22-309 and/or our newsletter of March 28th.

Late-Filed ECF Applications — A Cautionary Tale

For many years, particularly since the E-Rate Modernization Orders that added significant funding to the E-rate program, applicants have become accustomed to a lenient FCC policy routinely approving waivers for late-filed E-rate applications certified within 14 days of the close of the window. For the past two years, waivers for still later-filed applications (typically within 30 days) have also been granted treating the pandemic-related causes as "special circumstances."

The FCC has taken a similarly flexible waiver policy with regard to late ECF filings in the second application window.[1] Based on both the E-rate and the ECF precedents, third window ECF applicants who missed the May 13th application window may presume that similar waivers will be granted again this time around if new third window ECF applications are filed within the 14-day period ending this Friday, May 27th.

We caution that this 14-day "grace" period may not hold this time around.

To understand our concern, a little history is necessary for perspective. All the late-filing waivers granted over the past decade stem from and reference the *Academy of Math and Science Order* (FCC 10-122) of 2010.[2] This Order granted 97 waivers for applications filed within 14 days of the close of the window or were otherwise delayed due to "special circumstances." Not so well known is the fact that the same Order denied 158 requests for waiver not meeting these criteria.

Perhaps more importantly, it should be noted — and stressed — that the granting of waivers for all the late-filed applications that followed the *Academy of Math and Science Order* in no way disadvantaged funding for applicants that had filed their applications on time. In particular, during recent years in which many late-filed waivers have been granted, extra E-rate funding was available to fully fund both timely-filed and waiver-approved applications.

It is highly likely that the demand for funding in the third ECF window, when added to the funding already approved or to be approved for the first two ECF windows, will exceed the program's $7 billion statutory cap. Actual ECF-3 funding request data should be available soon. Assuming full funding is not available, the ECF rules specify that funding will be allocated based on a modified discount rate matrix. As shown in the table below, the prioritization allocation process starts with funding for the highest discount applicants first then working down the modified discount chain until funding is depleted (see also our newsletter of March 28th).

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[1] Late-filed applications in the first ECF window were subsequently moved into the second ECF window without specifically requiring an FCC waiver.

[2] As well as the earlier *Bishop Perry Order* (of 2006), *Academy for Academic Excellence Order* (of 2007),*and the Acorn Public Library District Order* (of 2008).

ECF Priority	Discount Band	Rural/ Urban	NSLP Percent
1	95%	Rural	75-100%
2	90%	Urban	75-100%
3	85%	Rural	50-74%
4	80%	Urban	50-74%
5	75%	Rural	35-49%
6	65%	Rural	20-34%
7	60%	Urban	35-49%
8	55%	Rural	1-19%
9	50%	Urban	20-34%
10	40%	Urban	1-19%
11	30%	Rural	<1%
12	20%	Urban	<1%

This means that any significant demand from late-filed applications, if approved by waiver, would at some discount level eliminate funding for other applicants who had filed on time. Suppose, for example, that the total demand from on-time applications was sufficient to fund down into the 75% rural discount band. Were the FCC to grant late-filed application demand for $100 million (or so) for high discount applicants, the 75% rural band on-time applicants (and maybe some of the 80% urban band applicants as well) might not get funded. Would this be fair?

At some point in the not so distance future, the FCC will need to decide on the fairness of depriving some on-time applicants of funding because of waivers given to higher-discount late filers. Late-filing applicants in the third ECF window should not automatically assume that the FCC's historic waiver policy is the governing precedent in an allocated funding environment.

Updates and Reminders

Upcoming Dates:

May 26	Extended FY 2022 application window deadline for new Tribal libraries (see DA 22-231).
May 27	Form 486 deadline for FY 2021 covering funding committed in Wave 42. More generally, the Form 486 deadline is 120 days from the FCDL date or from the service start date (typically July 1st), whichever is later. Upcoming Form 486 deadlines are:

    Wave 43   06/03/2022
    Wave 44   06/10/2022

May 27	Reply comments due on the FCC's proposal to create an E-rate competitive bidding portal (FCC 21-124).
May 27	Beginning of the summer deferral period for PIA inquiries (see pp. 6-7 of the E-Rate News Brief referenced below).
May 31	The extended invoicing deadline for FY 2020 non-recurring services.

| June 9 | USAC's E-rate services webinar for beginners. Note: The E-Rate News Brief referenced below also includes links to the recordings and slide decks from USAC training sessions held earlier in April and May. |

USAC ECF Newsletter Dated May 17 — The Fourth "Unmet Needs" Question

USAC's Emergency Connectivity Fund Program Newsletter of May 17, 2022, added one new FAQ to help clear up some confusion applicants experienced in answering the fourth unmet needs question on the revised ECF-3 Form 471 application. The new FAQ reads as follows:

What information should we use to answer the fourth unmet needs survey question?

In response to the fourth unmet needs survey question about how many students will be provided a connected device, a broadband connection, or both a connected device and a broadband connection with the ECF Program funding requested, schools that applied during the third window needed to provide the number of students that they will provide connected devices, broadband connections, or both with the ECF funding requested during the third application filing window. There was no need to report the number of students that were or will be provided equipment and/or services through a first or second window committed funding request on a third window application. If you already responded with information that includes all three application windows, you may request to modify your unmet needs survey responses in the ECF Portal during the PIA review process or through a Post-Commitment Request if the funding request has been committed.

USAC E-Rate News Brief Dated May 19 – Multiple Topics

USAC's Schools and Libraries News Brief of May 19, 2022, discusses the following topics:
- Responding to Program Integrity Assurance (PIA) review questions in EPC
- Overview of the Selective Review process
- Summer Contact ("Summer Deferral") period starts May 27
- Getting ready for invoicing
    Note: The extended invoicing deadline for FY 2020 non-recurring services is May 31, 2022.
- E-Rate training and recordings available on demand

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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