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FY 2023 Application Window

The FY 2023 Form 471 application window will open on **Wednesday, January 18, 2023**, at 12:00 noon EST, and will close on Tuesday, March 28, 2023, at 11:59 p.m. EDT.

USAC's Special Edition E-Rate News Brief of December 21st, announcing the FY 2023 window, provided tips for first-time filers, Category 2 budget planning, competitive bidding, and browser updates. Most immediately, the News Brief reminded applicants to update their EPC entity profiles before the close of the Administrative Window that is scheduled for **Monday, January 16th** 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 E-Rate and ECF

E-Rate for FY 2022:

Wave 37 for FY 2022 was issued on Thursday, December 29th, for $8.33 million including $3.88 million for one North Carolina district. Cumulative commitments to date are $2.80 billion including $66.9 million for North Carolina. Nationwide, USAC has funded 98.1% of the FY 2022 applications representing 93.5% of the requested funding.

ECF for 2021-2023:

Total commitments for all three ECF windows are $6.47 billion including $180 million for North Carolina. Nationwide, USAC has funded 79.4% of the ECF applications representing 65.4% of the requested funding. Window 3 applications are now being funded down to the 75% rural band; Window 3 applications in the 65% rural band are currently under review. Total disbursements as of last Friday were $2.56 billion.

2022 Review – 2023 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 2022 and a preview of 2023. Additional details on 2022 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 2022:

January	The FCC adopted a Report and Order (FCC 22-2) on the Affordable Connectivity Program ("ACP"), a $14.2 billion federal program providing discounts on internet services for low-income households.
	The FY 2022 Form 471 application window opened on January 12th.
	The FCC adopted new rules (FCC 22-8) on Tribal library E-rate eligibility.
February	The FCC extended the ECF service delivery deadline for first and second window applicants one year to June 30, 2023 (DA 22-176).
March	The FY 2022 Form 471 application window closed March 22nd.
April	The third ECF application window opened April 28th and closed May 13th for services to be delivered between July 1, 2022, to December 31, 2023.
	DUNS numbers, previous used with SAM.gov registrations required for ECF invoicing, were transitioned to new Unique Entity Identifier ("UEI") numbers.
	The first wave of E-rate funding commitments for FY 2022 was released on April 23rd.
	Public comments were received on the FCC's proposed E-rate bidding portal (FCC 21-124 — see our newsletter of May 2nd).
May	FCC Chairwoman Rosenworcel announced a proposal to permit E-rate funds to support Wi-Fi on school buses. No definitive action on this proposal was taken in 2022.
	The Federal Trade Commission ("FTC") adopted a policy statement guiding the enforcement of the Children's Online Privacy Protection Act ("COPPA") with respect to data gathered by education technology companies.
June	Congress extended the free meal provisions for all children, which had been in effect throughout the pandemic, through the summer of 2022, but not into the 2022-2023 school year. This will require a return to the NSLP and CEP provisions for free meals for the 2023-2024 school year.
July	As of July 1st, the start of FY 2022, USAC had released eleven funding waves with FCDLs totaling approximately $1.94 billion, the highest ever at this point in the year.

August	The FCC established two outreach programs ([FCC 22-64](#) and [FCC 22-65](#)) to increase awareness and promote enrollment in the ACP internet discount program.
	The FCC released a "Report on the Future of the Universal Service Fund" ([FCC 22-67](#)) addressing the goals of universal deployment, affordability, adoption, availability, and equitable access to broadband services.
September	Dramatically raising the awareness of cybersecurity concerns, Los Angeles Unified School District reported a major ransomware attack and [petitioned](#) the FCC for E-rate support to bolster and maintain IT security infrastructure.
	Responding in large part to supply chain issues, the FCC extended the service delivery deadline for FY 2021 non-recurring service FRNs by one year to September 30, 2023 ([DA 22-976](#)).
	The FCC extended deadlines and waived other rules to assist E-rate and ECF applicants adversely affected by Hurricane Fiona ([DA 22-998](#)). Similar actions were taken the following month for those applicants affected by Hurricane Ian.
October	USAC [announced](#) plans to integrate E-rate invoicing and post-commitment changes into EPC early in 2023.
	The General Accounting Office ("GAO") [released a report](#) indicating that additional Federal coordination is needed to enhance K-12 cybersecurity.
	Funds For Learning released the results of its twelfth annual E-rate survey (see summary in our [newsletter of October 31st](#)).
November	The FCC adopted a new Order ([FCC 22-84](#)) dealing with National security threats. The list of barred Chinese firms now stands at ten "[covered companies](#)."
December	Heading into 2023, the USF contribution factor is once again over 30% (see our [newsletter of December 19th](#)).
	The FCC's Office of Inspector General ("OIG") and its subcontractor, Censeo Consulting Group, began requesting audit-like documentation from selected ECF applicants on unmet need surveys, asset inventories, and invoices on ECF-purchased equipment and services.
	The FCC adopted the Eligible Services List ([DA 22-1313](#)) for FY 2023 with only one minor change from FY 2022. Separately, on the plus side, the FCC issued a request for comments ([DA 22-1315](#)) on the use of E-rate funds for advanced or next-generation firewalls and other network security services. This is the first time that the FCC has addressed — and in a seemingly positive manner — the eligibility of cybersecurity products and services (see our [newsletter of December 19th](#)).
	The FCC [reappointed](#) Dr. Daniel A. Domenech, Executive Director, American Association of School Administrators and Amber Gregory,

Manager of E-Rate Services, Arkansas State Library, to new three-terms as members of the USAC Board.

Anticipated Developments in 2023:

E-Rate: The E-rate program continues to run smoothly. At this point, USAC is on track for opening the FY 2023 Form 471 application window on January 18th and closing it on March 28th. To avoid last minute hassles and possible system problems, we encourage applicants to complete their competitive bidding processes, sign their contracts, and file their FY 2023 applications as early in the year as possible.

The most difficult aspect of the FY 2023 application process, at least for some applicants, may be determining current NSLP percentages for discount rate purposes. With free meals having been made available to all students over the past two pandemic years, schools needing to collect NSLP applications for the current school year may have had to reeducate parents on the process. As such, schools may be hard pressed to fully update their eligible student counts before the administrative window closes on January 16th. The wait for complete NSLP data may also slow state efforts to submit FY 2023 valid files to USAC for PIA review purposes.

The hope is that 2023 will, for the first time in a long while, bring about an expansion of the Eligible Services List, at least for FY 2024. Two major additions are under consideration.

- Cybersecurity: As discussed in our newsletter of December 19th, the FCC has requested comments on the use of E-rate funds for advanced or next-generation firewalls and other network security services. Although not a formal Notice of Proposed Rulemaking, the request for comments is the first time that the FCC has addressed — and in a seemingly positive manner — the eligibility of cybersecurity products and services. With reply comments not due until March 30th, and the FY 2023 ESL already finalized, any change in cybersecurity eligibility for the coming year is unlikely. To allow for that possibility, however, applicants purchasing advanced firewalls in FY 2023 may wish to file two FRNs — one FRN covering the allocated cost of the currently eligible "basic" firewall, and a second FRN for the remaining portion.

- Wi-Fi on school buses: FCC Chairwoman Rosenworcel's proposal to make W-Fi on school buses E-rate eligible (see our newsletter of May 16th) via a Declaratory Ruling has stalled but may be resuscitated by the addition of a fifth Commissioner. In the meantime, experience gained with school bus Wi-Fi supported under ECF may demonstrate educational benefits to students — not to mention the sanity of bus drivers (see our newsletter of May 30th).

The most controversial E-rate development in 2023 is expected to revolve around the FCC's proposal to implement an online competitive bidding portal — see FCC Notice of Inquiry (FCC 21-124) referenced above and in our newsletter of December 20, 2021. Fortunately, the bidding portal is not expected to be implemented until FY 2024 at the earliest and will not affect FY 2023 applications.

ECF: USAC's review of pending ECF applications is now focused on Window 3 applications with funding currently being provided down to the 75% rural level. Funding at lower priority levels

remains a distinct possibility as USAC completes application reviews and applicants continue to reduce their funding commitments for unneeded equipment and services. ECF audits, now just beginning, may hasten additional commitment reductions.

Service delivery deadlines — June 30th for Windows 1 & 2 commitments and December 31st for Window 3 commitments — will shift the focus to invoicing. As this occurs, many applicants and service providers will find a need to renew their SAM.gov registrations (required annually). More importantly, as ECF funding for home internet services comes to an end, we expect to see more schools and libraries begin to promote the alternative use of ACP discounts for qualified low-income families.

Updates and Reminders

Upcoming Dates:

January 5	USAC's FY 2023 Eligible Services webinar (register).
January 6	The Form 486 deadline for FY 2022 Wave 21. 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 22	01/13/2023
Wave 23	01/20/2023
Wave 24	01/27/2023

January 6	Last day of the PIA winter deferral period.
January 9	ACP application window deadline (DA 22-1213) for the FCC's outreach pilot programs for potential participation by schools, libraries, and others (see our newsletter of August 15th). See also the FCC and USAC announcements of the opening of the ACP application window.
January 16	Close of the Administrative Window; last chance to update EPC entity profiles for FY 2023. Thereafter, entity profiles will be locked until the close of the Form 471 application window.
January 18	Opening of the FY 2023 application window.
February 13	Comments due on requests to allow the use of E-rate funds for advanced or next generation firewalls and/or other network security services (DA 22-1315). Reply comments are due March 30th.
February 28	Last possible date — **please do not wait until then** — to file a Form 470 for FY 2023 in order to: (a) meet the 28-day posting period; (b) close the bidding process and select the winning bidder(s); (c) sign any necessary contract(s); and (d) file the Form 471 application(s), all on the last day of the application window.
March 28	Closing of the FY 2023 application window at 11:59 p.m. EDT.

FCC Streamlined Decisions:

The FCC issued another set of "streamlined" precedent-based decisions (DA 22-1346) 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. E-Rate Dismissed:
   a. One Request for Review deemed moot "where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices were funded."
   b. One Request for Review that failed to meet the FCC's filing requirements for supporting documentation. The service provider filing this request had simply filed USAC's SPI denial notice.
   c. One Petition for Reconsideration dismissed for failing "to identify any material error, omission, or reason warranting reconsideration, and rely[ing] on arguments that have been fully considered and rejected by the Bureau within the same proceeding."

2. E-Rate Granted:
   a. One Request for Waiver for ministerial and/or clerical errors "where the applicant selected the wrong category of service on its FCC Form 471."
   b. One Petition for Reconsideration setting a new special construction service delivery deadline.
   c. One Request for Waiver of the Red Light Rule deemed "warranted given the grossly disproportionate penalty of funding loss coupled with the other unique circumstances present, including the payment of the debt shortly after it received notice of the debt."

3. E-Rate Denied:
   a. One Request for Waiver of the Red Light Rule rejecting the argument that even though the applicant "was on red light status when it applied for funding, it eventually repaid the debt."
   b. Three Requests for Waiver for late-filed FY 2022 applications.
   c. Four Requests for Waiver for late-filed invoice deadline extensions (filed in November 2022 having apparently missed the October 28th deadline).
   d. One Request for Waiver for relying on a Form 470 not seeking bids on services later requested on a Form 471.
   e. Two Requests for Waiver for untimely filed appeals or waivers.

4. ECF Dismissed as Moot:
   a. One Request for Review and/or Waiver "where USAC had taken the action the petitioner requested."

5. ECF Granted:
   a. Two Requests for Waiver permitting the delivery of equipment before the start of the approved funding period.
   b. Three Requests for Waiver for ministerial and/or clerical errors.
   c. One Request for Waiver "recognizing that the reasonable cost of connected devices for individuals with disabilities." Interestingly, this was a preemptive waiver request submitted and approved before the applicant's Window 3 application was under review.
   d. One Request for Waiver of a special construction service delivery deadline.

USAC's ACP Service Provider Tool:

Schools and libraries that did not apply for ECF internet funding, or even for those that did but whose funding is running out, are beginning to promote the Affordable Connectivity Program ("ACP") as a way for low-income families to establish or maintain low- or no-cost home internet services. To assist in these efforts, the FCC has developed an extensive ACP Consumer Outreach Toolkit. One missing tool in this kit, however, has been one that would help consumers — and the schools and libraries that might help those consumers — identify the internet providers in their areas who are providing ACP-discounted services.

To this end, we were encouraged to read USAC's recent ACP – December 2022 Newsletter describing its new Companies Near Me tool "to help consumers find providers that offer service in their area." The tool works off the following simple search screen:

Search results, however, are likely to overwhelm schools and libraries seeking to partner with local providers. Tests of the tool we've conducted yielded lists of a hundred or more companies supposedly offering ACP-discounted services within a single local Zip Code. Many of these companies (roughly 60% in our tests), while often promoting "nationwide service," are providing only mobile internet services, presumably through reseller arrangements.

Schools or libraries seeking to develop home internet outreach programs with local internet providers can best use the USAC "Companies Near Me" tool by doing the following:

- Download the search results for one or more local Zip Codes.

- Sort the list by "Type of Service" to focus on Home Internet (not Mobile Internet). In our tests, Home Internet represented about 40% of the entries.

- If the goal is to promote free home internet services, further sort the list by "$0 with ACP." "Yes" in this field indicates that the provider has at least one service offering costing $30 or less per month such that with an ACP discount of up to $30 per month, home internet services would be free. In our tests, less than 10% of the companies listed for a given area could provide free, ACP-discounted, home internet services.

- Use the URL hyperlinks in the tool results to further explore the now shortened list of potential internet partners. The tool also provides follow-up telephone numbers for those providers.