



- FY 2023 Application Window
- Funding Status for E-Rate and ECF
 - E-Rate for FY 2022
 - ECF for 2021-2023
- NYS Applicants File FCC Comments on Cybersecurity
- Potential E-Rate Changes for Tribal Applicants — and Others?
- Updates and Reminders
 - Upcoming Dates
 - FCC Streamlined Decisions

FY 2023 Application Window

The FY 2023 Form 471 application window will close on Tuesday, March 28, 2023, at 11:59 p.m. EDT — see USAC’s E-Rate [Special Edition News Brief Dated January 18th](#).

Funding Status for E-Rate and ECF

E-Rate for FY 2022:

Wave 42 for FY 2022 was issued on Thursday, February 2nd, for \$4.80 million, none for North Carolina. Cumulative commitments to date are \$2.82 billion including 71.1 million for North Carolina. Nationwide, USAC has funded 98.3% of the FY 2022 applications representing 94.5% of the requested funding.

ECF for 2021-2023:

USAC [issued](#) two ECF funding waves last week — Wave 28 for Windows 1 & 2 on January 30th and Wave 17 for Window 3 on February 1st — for a total of \$30.3 million. In aggregate, funding included \$2.89 million for four North Carolina applicants. Total commitments for all three ECF windows are \$6.57 billion including \$189 million for North Carolina. Nationwide, USAC has funded 84.6% of the ECF applications representing 67.2% of the requested funding. Window 3 applications are now being funded down to the 65% rural band. Total disbursements as of last Friday were \$2.69 billion.

NYS Applicants File FCC Comments on Cybersecurity

A response to the FCC’s request for comments ([DA 22-1315](#)) on the E-rate eligibility of advanced firewalls and other cybersecurity services was filed last Saturday by fifty New York E-rate

applicants. The [NYS cybersecurity comments](#) asked the FCC to make advanced firewalls fully eligible for Category 2 funding as early as possible within the remaining years of the current FY 2021-2025 budget cycle. The comments focused on the following key points:

- Cybersecurity attacks have been a major problem for many New York State applicants.
- Up to \$2 billion in Category 2 funding is expected to be available over the next three years that could be used to support advanced firewalls.
- Advanced firewall funding could be made available as early as FY 2023 without requiring any changes to the existing Eligible Services List.

Applicants and service providers are reminded that initial comments on the FCC’s current cybersecurity initiative are due February 13th, with reply comments due March 30th. At a minimum, interested parties wishing to support E-rate eligibility for advanced firewalls and/or other cybersecurity products and services, should consider filing [FCC Express Comments](#) as early in the FY 2023 application cycle as possible.¹ Support for the NYS cybersecurity comments would be appreciated.

Potential E-Rate Changes for Tribal Applicants — and Others?

An agenda item on the FCC’s February 16th [open meeting](#) schedule is a Notice of Proposed Rulemaking (“NPRM”) seeking comments on improvements to the E-rate program designed to increase broadband access for Tribal applicants — and possibly “other small non-Tribal applicants.”

The [draft NPRM](#) includes the following proposals for consideration:

- Establishing a definition of “Tribal” for the E-rate program.
- Adding a Tribal representative to USAC’s Board of Directors.
- Allowing Tribal college libraries that serve a dual role as a public library in their communities to be eligible for E-rate support.
- Creating an extended or separate application filing window for Tribal libraries.
- Increasing the maximum discount rate level for Category 2 services from 85% to 90% for Tribal schools and libraries.
- Increasing the Category 2 five-year \$25,000 funding floor for Tribal schools and libraries.
- Exempting low-cost Category 2 services totaling less than \$3,600 (prediscount) from competitive bidding requirements (as is currently the case for commercially available internet services).
- Simplifying the cost allocation rules for libraries sharing equipment and services with ineligible entities.

Assuming the NPRM is adopted, initial comments will be due 45 days after publication in the *Federal Register* with reply comments due 30 days thereafter.

¹ Reference Proceeding 13-184.

Updates and Reminders

Upcoming Dates:

- February 10 The Form 486 deadline for FY 2022 Wave 26. 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 27 | 02/17/2023 |
| Wave 28 | 02/24/2023 |
- 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 16 FCC Open Meeting to include the consideration of an NPRM that would “...seek comments on improvements to the E-Rate program that would increase access for Tribal applicants generally as well as within the Tribal Libraries E-Rate Pilot Program” (see [Public Draft](#)).
- 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 Close of the FY 2023 Form 471 application window at 11:59 p.m. EDT.

FCC Streamlined Decisions:

The FCC issued another set of “streamlined” precedent-based decisions ([DA 23-70](#)) 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 January’s streamlined decisions, the FCC:

1. E-Rate Dismissed:
 - a. Two Petitions 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 to cure ministerial and/or clerical errors on a competitive bid evaluation.
 - b. One Request for Waiver demonstrating extraordinary circumstances warranting an invoice deadline extension.

- c. Three Requests for Review allowing the submission of discount calculation information when the applicant was previously unable to fully comply with the document request within USAC's permitted time.
 - d. Six Requests for Review and/or Waiver for ministerial and/or clerical errors.
 - e. One Request for Review and/or Waiver allowing an extension of the deadline for service implementation when the applicant demonstrated it was unable to complete implementation on time for reasons beyond the service provider's control and made significant efforts to secure the necessary extensions.
 - f. Three Requests for Waiver for contracts signed after submission of the Form 471s.
 - g. Five Requests for Review or Waiver covering late-filed invoices awaiting post-commitment decisions.
 - h. Five Requests for Review and/or Waiver of the special construction service delivery deadline.
 - i. Three Requests for Review or Waiver for appeals or waivers filed "only a few days late."
3. E-Rate Denied:
- a. One Request for Waiver for which "the applicant did not provide any evidence to change its urban designation to rural as requested."
 - b. Two Requests for Waiver for failure to satisfy the Red Light Rule noting "that subsequent repayment of the delinquent amount that is in violation of the red light rule does not reverse the dismissal of the any pending application(s)."
 - c. One Request for Waiver of a late-filed Form 471 application.
 - d. Eight Requests for Waiver for late-filed invoices or invoice deadline extension requests.
 - e. Two Requests for Review and/or Waiver for untimely filed appeals or waivers.
4. ECF Dismissed as Insufficient:
- a. Two Requests not meeting general filing requirements.
5. ECF Granted:
- a. One Request for Waiver permitting the delivery of equipment before the start of the approved funding period.
6. ECF Denied:
- a. Eleven Requests for Waiver for untimely filed appeals or waiver requests that, for ECF, must be filed within 30 days (vs. the 60-day window for E-rate).

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.

In compliance with federal law, the NC Department of Public Instruction administers all state-operated educational programs, employment activities and admissions without discrimination because of race, religion, national or ethnic origin, color, age, military service, disability, or gender, except where exemption is appropriate and allowed by law.