

2 CFR PART 200, APPENDIX XI

COMPLIANCE SUPPLEMENT



April 2022

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**

FEDERAL COMMUNICATIONS COMMISSION

ASSISTANCE LISTING 32.009 EMERGENCY CONNECTIVITY FUND PROGRAM

I. PROGRAM OBJECTIVES

Note: This program is considered a “higher risk” program for 2022, pursuant to 2 CFR section 200.519(c)(2). Refer to the “Programs with Higher Risk Designation” section of Part 8, Appendix IV, Internal Reference Tables, for a discussion of the impact of the “higher risk” designation on the major program determination process.

Congress established the Emergency Connectivity Fund (ECF) through section 7402 of the American Rescue Plan Act of 2021 (Act), and appropriated \$7.171 billion for the purchase of eligible equipment, advanced telecommunications, and information services for use by students, school staff, and library patrons at locations that include locations other than at a school or library to remain available until September 30, 2030. In addition, Congress appropriated \$1 million for the Inspector General of the Federal Communications Commission (Commission) to conduct oversight of support provided through the ECF. Congress directed the Commission to promulgate rules providing for the distribution of funding from the Emergency Connectivity Fund within 60 days from the date of enactment. The Commission adopted rules and established the Emergency Connectivity Fund Program on May 10, 2021. See *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696 (2021) available at <https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf> (Report and Order). Congress also provided that these appropriated funds would remain available until September 30, 2030.

The ECF Program provides funding to meet the remote learning needs of students, school staff, and library patrons who would otherwise lack access to connected devices and broadband connections sufficient to engage in remote learning during the COVID-19 emergency period. In the Report and Order, the Commission adopted an initial 45-day application filing window to allow eligible schools and libraries to request funding for eligible services and equipment to be received or delivered between July 1, 2021 through June 30, 2022, the current school year.

The Act also provides that the Commission and the Universal Service Administrative Company (USAC), the permanent administrator of the Universal Service Fund, will administer the regulations adopted pursuant to section 7402. In the Report and Order, the Commission directed USAC to administer the Emergency Connectivity Fund Program under its oversight and pursuant to the terms of the March 19, 2021 Memorandum of Understanding (MOU) between the Commission and USAC.

As a direct payment for specified use, these funds are considered federal financial assistance and are subject to only the certain sections (as noted in the Source of Governing Documents, below) of the Code of Federal Regulations, Title II, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. For Audit purposes, Nonprofit organizations must refer to Subpart F and other types of organizations may be audited by the Commission or Contractor. Audit information may be requested by the Commission, USAC, or Commission’s contractor for program specific audits.

For additional details regarding the ECF Program, please visit <https://www.fcc.gov/emergency-connectivity-fund> and <https://www.emergencyconnectivityfund.org/>.

II. PROGRAM PROCEDURES

Consistent with Congressional direction in section 7402, schools, libraries, and consortia of schools and libraries that are eligible for support through the E-Rate Program, are eligible to request and receive support through the ECF Program. However, eligible schools and libraries do not have to be participants in the E-Rate Program, to participate in the ECF Program. In its Report and Order, the Commission determined that the Program would leverage many of the existing forms, including the E-Rate application form (i.e., FCC Form 471 – Description of Services Ordered and Certification Form) and other E-Rate processes to the extent feasible for the Program to streamline the process for applying for and receiving support through the ECF Program.

The Commission opened an initial 45-day filing window for applicants to submit requests for funding (i.e., ECF FCC Form 471 applications) for eligible equipment and services received or delivered between July 1, 2021 and June 30, 2022. The first initial application filing window opened on June 29, 2021 and closed on August 13, 2021. Due to the availability of remaining funds after the close of the initial application filing window, a second ECF Program application filing window opened on September 28, 2021, and closed on October 13, 2021, to allow schools and libraries to apply for funding to address remaining unmet connectivity needs of their students, school staff, and library patrons. During the second application filing window, applicants could submit requests for funding to purchase eligible equipment and services to be received or delivered between July 1, 2021 and June 30, 2022.

USAC reviews the timely filed ECF FCC Form 471 applications and makes recommendations for issuing commitments for the funding requests. The Commission reviews and approves the recommended funding decisions and USAC then issues the funding commitment decision letters to the applicants and service providers. The Commission records the commitments and obligates funds in the Commission's financial system. In the event that demand exceeds available funds, the Commission and USAC will prioritize support based on the applicant's E-Rate Program discount rate for category one services, with a 5 percent bump up for rural schools and libraries. See ECF Program prioritization matrix at 47 CFR section 54.1708(c).

Applicants that will submit requests for reimbursement for Program payments, or service providers that agree to submit requests for reimbursement on behalf of the applicant, must register or renew their account with the System for Award Management (SAM), which is located at <https://sam.gov/content/home>, in order to receive program disbursements.

Applicants will submit reimbursement requests using the ECF FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) Form, and service providers that agree to invoice on behalf of applicants will submit the ECF FCC Form 474, Service Provider Invoice (SPI) Form. Applicants and service providers are required to include certain certifications on the form to protect against waste, fraud, and abuse. Applicants and service providers are also required to submit vendor invoices detailing the items purchased, along with their reimbursement requests. Invoices must support the amounts requested in the application form and reimbursement request.

The Commission authorizes the disbursement of funds by the United States Department of Treasury after approving the proposed payments.

Source of Governing Requirements

The Emergency Connectivity Fund Program is established pursuant to the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 109-110, Sec. 7402(c). The bill is available at [H.R.1319 - 117th Congress \(2021\): American Rescue Plan Act | Congress.gov | Library of Congress](#).

Pursuant to the American Rescue Plan Act, the Commission adopted rules for the ECF Program in its May 10, 2021 Report and Order: *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket Nos- 21-58, 21-93 Report and Order, 36 FCC Rcd 8696 (2021). The Report and Order is available at <https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf>. The rules for the ECF Program are available at [47 CFR sections 54.1700 et seq.](#)

As a direct payment for specified use, these funds are considered federal financial assistance and are subject to only the following sections of the Code of Federal Regulations, Title II, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“2 CFR”): Subpart A, Acronyms and Definitions; Subpart B, General provisions; subparts C–D (specifically 2 CFR section 200.203 – Requirement to provide public notice of federal financial assistance programs; 2 CFR section 200.303 Internal controls; and 2 CFR sections 200.331-333 Subrecipient Monitoring and Management); Subpart F, Audit Requirements.

The following remaining 2 CFR policy requirements are excluded from coverage under this assistance listing: Subpart C; Subpart D; Subpart E.

Code of Federal Regulations is available at [CFR - Title 2 \(2021\): Grants and Agreements | ECFR.gov | Code of Federal Regulations](#).

Availability of Other Program Information

Program information is available at <https://www.fcc.gov/emergency-connectivity-fund>. See “Frequently Asked Questions” section for details. Additional information is also available at <https://www.emergencyconnectivityfund.org/>.

The documents listed in the “Source of Governing Requirements” and the above link serve as a guide for tests and findings.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	Y	N	N	N	Y

A. Activities Allowed or Unallowed

See Eligible Services and Equipment section at <https://www.fcc.gov/emergency-connectivity-fund> and Appendix B – Eligible Services List for Emergency Connectivity Fund Program at <https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf>.

1. *Activities Allowed*

ECF Program-funded devices and services must be used primarily for off-campus educational purposes and by students, school staff, and library patrons with otherwise unmet needs. To ensure that funding is focused on unmet needs, the Commission requires schools, library, and consortia to certify, as part of their funding application, that they are only seeking support for eligible equipment and/or broadband connectivity provided to students, school staff, and library patrons who would otherwise lack access to connected devices and/or broadband connectivity sufficient to engage in remote learning.

The ECF FCC Form 471 application must be signed by the person authorized to order eligible equipment and/or services for the eligible school, library, or consortium and shall include that person's certification under penalty of perjury. Certifications include:

- a. Since the connected devices supported by this Program are intended to be used primarily for educational purposes and by students, school staff, and library patrons, the Commission requires schools and libraries to restrict access to eligible connected devices to only those students, school staff, and library patrons with appropriate credentials.

- b. The library applicant must certify that the library or library consortium listed on the FCC Form 471 application is only seeking support for eligible equipment and/or services provided to library patrons who have signed and returned a statement that the library patron would otherwise lack access to equipment or services sufficient to meet the patron's educational needs if not for the use of the equipment or service being provided by the library. To ensure that libraries are providing eligible equipment and services to patrons with unmet needs, before providing a library patron with eligible equipment or services, the library must provide the patron a copy of an eligible use policy, which explains that the equipment or service is intended for library patrons who do not otherwise have access to equipment or services sufficient to meet the patron's educational needs. The library must also obtain a signed statement from the library patron that they would otherwise lack access to the equipment or services sufficient to meet their educational needs if not for the equipment or service provided by the library.
- c. The school or school consortium applicant must certify that the school entities listed on the FCC Form 471 application are only seeking support for eligible equipment and/or services provided to students and school staff who would otherwise lack connected devices and/or broadband services sufficient to engage in remote learning. These applicants must describe how and when they collected the information that they use for the estimates provided in their responses on the application section pertaining to the unmet needs of their students.

The complete list of certifications required on the program application is listed at 47 CFR section 54.1710(a)(1)(i)-(xv).

The complete list of certifications required on the program Request for Reimbursement forms to be made by applicants and the service providers that agree to submit these forms on the behalf of applicants is listed at 47 CFR section 54.1711(a)(1)(i)-(xii) and (a)(2)(i)-(x).

Both applicants and service providers, who agree to invoice on the applicant's behalf, may submit requests for reimbursement. The applicant must indicate that its service provider will submit the requests for reimbursement in its application and provide evidence that shows that the service provider has agreed to the arrangement.

Applicants who have entered into contractual arrangements or are otherwise legally obligated to purchase eligible equipment and services from their service provider, can submit requests for reimbursement before they have paid their service provider(s) for the requested equipment and services. The equipment or services must have been received before the applicant may submit requests for reimbursement. Applicants must also pay their service provider within 30 days

after receipt of funds and will be required to certify compliance and provide verification of payment to the service provider.

2. *Activities Unallowed*

Schools and libraries are prohibited from seeking and receiving reimbursement for eligible equipment and services purchased for use solely at the school or library. Additionally, for funding requests submitted during the first two application filing windows, items purchased or received prior to July 1, 2021, or after June 30, 2023, are ineligible for ECF funding at this time (see, e.g., 47 CFR section 54.1708(b) and *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, Order, DA 22-176 (rel. Feb. 22, 2022) (extending the service delivery date from June 30, 2022 to June 30, 2023). There is a minor exception for multi-year lease agreements for equipment or connected devices. The ECF Program will fund the lease payments for this equipment or connected devices for the period July 1, 2021 through June 30, 2023, the extended service delivery date for equipment, non-recurring services, and recurring services requested during for the first two application filing windows. The applicants may have received this equipment or connected devices before the July 1, 2021 date for these multi-year lease arrangements.

ECF Program rules require that on the ECF Request for Reimbursement forms - the FCC Form 472 and FCC Form 474 – applicants and service providers certify to the following under penalty of perjury: “No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by § 54.10.”

Entities participating in the Emergency Connectivity Fund may not seek Emergency Connectivity Fund support or reimbursement for eligible equipment or services that have been purchased with or reimbursed in full from other Federal pandemic-relief funding, targeted state funding, other external sources of targeted funding or targeted gifts, or eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanisms.

B. Allowable Costs/Cost Principles

See Eligible Services and Equipment section at <https://www.fcc.gov/emergency-connectivity-fund-faqs> and Appendix B – Eligible Services List for Emergency Connectivity Fund Program at <https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf>.

Section 7402(b) provides that the Commission will reimburse 100 percent of the costs associated with the purchase of eligible equipment and/or advanced telecommunications

and information services, except that any reimbursement of a school or library for the costs associated with any eligible equipment may not exceed an amount the Commission determines to be reasonable. Section 7402(d)(6) defines eligible equipment to mean: (1) Wi-Fi hotspots, (2) modems, (3) routers, (4) devices that combine a modem and router, and (5) connected devices. Section 7402(d)(11) defines Wi-Fi hotspot as a device that is capable of—(A) receiving advanced telecommunications and information services; and (B) sharing such services with another connected device through the use of Wi-Fi. Section 7402(d)(3) defines connected devices as laptop computers, tablet computers, or similar end-user devices that are capable of connecting to advanced telecommunications and information services. Section 7402(d)(1) defines “advanced telecommunications and information services” to mean advanced telecommunications and information services, as such term is used in section 254(h) of the Communications Act of 1934.

1. **Eligible Equipment:** Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices (i.e., laptops and tablet computers). Aircards used to connect end-user devices to the Internet through cellular data services are wireless modems and are also eligible for support through the ECF Program.
2. **Connected Devices:** The Commission defined connected devices as laptop computers and tablet computers that are capable of connecting to advanced telecommunications and information services (47 CFR section 54.1700(c)). It is expected that connected devices will be Wi-Fi enabled and be able to support video conferencing platforms and other software necessary to ensure full participation in remote learning. It is also expected that connected devices will be accessible to and usable by individuals with disabilities. If people with disabilities require connected devices to connect to the Internet, schools and libraries will request such devices to accommodate disabilities, if needed. The Commission also determined that desktop computers and mobile phones, including smart phones, are ineligible for ECF Program support.
3. **Advanced Telecommunications and Information Service:** The Commission defined advanced telecommunications and information services as services as the term is used in section 254(h) of the Communications Act, 47 USC section 254(h) (47 CFR section 54.1700(a)). To qualify for funding for the ECF Program, schools and libraries will only be reimbursed for purchasing a commercially available service providing a fixed or mobile broadband Internet access connection for off-campus use by students, school staff, or library patrons.
4. **Limited exception for network construction and/or datacasting.** Funding for network construction or self-provisioned networks will be permitted only where no commercially available broadband Internet access services are available that are sufficient to support remote learning for students, school staff, or library patrons. Under those same limited circumstances, funding for customer premises equipment to receive datacasting services will also be available. Applicants must demonstrate that there were no commercially available Internet access service options available sufficient to support remote learning from one or a combination

of providers. Applicants must also define the geographic area that was or will be served and assess the estimated number of students, school staff, or library patrons to be served. Applicants must be able to provide clear evidence of how they determined that an existing fixed or mobile network sufficient to support remote learning was or is not available and that for prospective construction, they sought service from existing providers serving the area prior to constructing a new network and that such providers were unable or unwilling to provide services sufficient to meet the remote learning needs of their students, school staff, or library patrons. Applicants will also be required to certify that they sought service from existing providers in the relevant area and that such providers were unable or unwilling to provide broadband Internet access services sufficient to meet their remote learning needs before constructing new networks or requesting funding for datacasting customer premises equipment.

For networks already constructed or equipment already purchased during the pandemic, applicants must show that services were provided to students, school staff, or library patrons during the funding period supported by the second filing window.

For future construction, they must show that construction is completed and services provided within one year of a funding commitment decision.

5. **Installation, Taxes, and Fees:** The Program will cover reasonable costs of the enumerated equipment, connected devices, and services, including installation, activation, and initial configuration costs, taxes, and fees. Installation and configuration costs will only be eligible for support if they are provided by the same vendor that is providing the eligible equipment.
6. **Wi-Fi Hotspots on School Buses and Bookmobiles:** Schools and libraries are allowed to use Emergency Connectivity Fund Program support to purchase Wi-Fi hotspots for school buses and bookmobiles to provide off-campus broadband services to students, school staff, and library patrons who currently lack sufficient broadband access.
7. **Reasonable Amount:** The Commission has determined that \$400 is a reasonable, maximum support amount for connected devices. Applicants may request a waiver of the reasonable support amount for connected devices, if the reasonable cost to purchase devices for students, school staff, or patrons with disabilities is higher than \$400 and the public interest warrants deviation from the general rule. For Wi-Fi hotspots provided to an individual student, school staff member, or library patron, \$250 is the maximum reasonable cost based on advertised costs for Wi-Fi hotspots.
8. **Funding will not be provided for desktop computers and mobile phones, including smartphones.** Funding for more than one connection and connected device per user is also prohibited.

For other types of eligible equipment—namely, modems, routers, and devices that combine modems and routers, and multi-user Wi-Fi hotspots, the Commission delegated authority to the Bureau to provide guidance to USAC for assessing the reasonability of the costs for these applications. USAC will also make the pricing data from the Emergency Connectivity Fund Program publicly available through its Open Data platform (<https://www.emergencyconnectivityfund.org/open-data/>). The publication of this pricing data will allow applicants to review prices paid by schools and libraries across the country for same and similar eligible equipment and services

9. Applicants may use consultants to assist with the preparation of their funding applications and reimbursement requests, but any fees associated with such assistance are not eligible for funding under the Program.

F. Equipment/Real Property Management

1. Equipment and Services

Applicants may request ECF Program funding for only eligible equipment and services. Eligible equipment and services funded by the Emergency Connectivity Fund Program are detailed in sections (A) and (B) above.

The Eligible Services List provides guidance on the equipment and services eligible for funding under the Emergency Connectivity Fund Program: https://www.fcc.gov/sites/default/files/ecf_esl.pdf.

Emergency Connectivity Fund Program participants are required to maintain asset and service inventories of the devices and services purchased with ECF Program support.

Equipment and service inventory requirements.

Schools, libraries, and consortia shall keep asset and service inventories as follows:

- a. For each connected device or other piece of equipment provided to an individual student, school staff member, or library patron, the asset inventory must identify:
 - (1) The device or equipment type (i.e. laptop, tablet, mobile hotspot, modem, router);
 - (2) The device or equipment make/model;
 - (3) The device or equipment serial number;
 - (4) The full name of the person to whom the device or other piece of equipment was provided; and

- (5) The dates the device or other piece of equipment was loaned out and returned to the school or library, or the date the school or library was notified that the device or other piece of equipment was missing, lost, or damaged.
- b. For each connected device or other piece of eligible equipment not provided to an individual student, school staff member, or library patron, but used to provide service to multiple eligible users, the asset inventory must contain:
- (1) The device type or equipment type (i.e. laptop, tablet, mobile hotspot, modem, router);
 - (2) The device or equipment make/model;
 - (3) The device or equipment serial number;
 - (4) The name of the school or library employee responsible for that device or equipment; and
 - (5) The dates the device or equipment was in service.
- c. For services provided to individual students, school staff, or library patrons, the service inventory must contain:
- (1) The type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);
 - (2) The service plan details, including upload and download speeds and monthly data cap;
 - (3) The full name of the person(s) to whom the service was provided;
 - (4) The service address (for fixed broadband service only);
 - (5) The installation date of the service (for fixed broadband service only); and
- d. For services not provided to an individual student, school staff member, or library patron, but used to provide service to multiple eligible users, the service inventory must contain:
- (1) The type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);

- (2) The service plan details, including upload and download speeds and monthly data cap
- (3) The name of the school or library employee responsible for the service;
- (4) A description of the intended service area;
- (5) The service address (for fixed broadband service only);
- (6) The installation date of the service (for fixed broadband service only); and
- (7) The last date of service, as applicable (for fixed broadband service only).

The FCC has also provided guidance for audits regarding the provision of personally identifiable information (PII) to USAC or Commission staff about individuals (e.g., students, school staff members, or library patrons). (See paragraph 134 of the Report and Order). In the Report and Order, the FCC stated that anyone that requests program information that could contain PII should protect all audit documentation from unauthorized access and abide by all applicable federal and state privacy laws. If anonymized or deidentified information regarding the students, school staff, and library patrons is not sufficient, auditors may request that the school or library obtain consent of the parents or guardians, for students, and the consent of the school staff member or library patron to have access to this PII or explore other legal options for obtaining PII.

- e. Records retention. All Emergency Connectivity Fund participants shall retain records related to their participation in the program sufficient to demonstrate compliance with all program rules for at least ten (10) years from the last date of service or delivery of equipment.
- f. Prohibition on resale. Eligible equipment and services purchased with Emergency Connectivity Fund support shall not be sold, resold, or transferred in consideration of money or any other thing of value, except as provided in paragraph (g) below.
- g. Disposal of obsolete equipment. Eligible equipment purchased using Emergency Connectivity Fund support shall be considered obsolete if the equipment are at least three years old. Obsolete equipment may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

2. *Real Property Management*

Not applicable

H. Period of Performance

1. Approved eligible equipment and services requested during the first two application filing windows must be received or delivered between July 1, 2021 and June 30, 2023, and therefore must be invoiced by August 29, 2023.
2. Applicants and service providers are required to submit reimbursement requests and invoices for prospective purchases within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post commitment change or a successful appeal of a previously denied or reduced funding commitment; or service delivery date, whichever is later. See 47 CFR section 54.1711(d) and *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, Order, DA 22-176 (rel. Feb. 22, 2022) (extending the service delivery date from June 30, 2022 to June 30, 2023).
3. For recurring services that are invoiced on a monthly or periodic basis, approved applicants may invoice within 60 days of the last date of service. For example, if an approved applicant receives monthly or periodic services through June 30, 2023, they must invoice by no later than August 29, 2023 (i.e., 60 days after the last date of service).
4. For equipment or other non-recurring services that have not been received when the applicant submits the application, applicants may use June 30, 2023 (i.e., 60 days after June 30, 2023), whichever is later.

I. Procurement and Suspension and Debarment

1. *Procurement*

Program applicants must certify on the ECF FCC Form 471 application that the school, library, or consortia listed on the ECF FCC Form 471 application has complied with all applicable state, local, or tribal local laws regarding procurement of services for which support is being sought.

Schools and libraries may seek support from the ECF Program for the purchase of eligible services and equipment using existing bulk purchase programs or sponsored service agreements, so long as doing so is consistent with the relevant local, state, and tribal procurement regulations. The Emergency Connectivity Fund Program is aimed at connecting numerous students, school staff, and library patrons at their homes or other locations, and therefore a school district or library system appropriately may have agreements with multiple service providers to offer connectivity.

Gift restrictions for the Program prohibit eligible schools and libraries receiving support through the Emergency Connectivity Fund Program, including their employees, officers, representatives, agents, independent contractors, and individuals who are on the governing boards, from soliciting or accepting any gift or other thing of value from a service provider participating in or seeking to participate in the Emergency Connectivity Fund Program. Participating service providers are likewise prohibited from offering or providing any gift or other thing of value to eligible entities, including their employees, officers, representatives, agents, independent contractors, and individuals who are on the governing boards. An exception in the Emergency Connectivity Fund Program gift rule allows service providers to offer and provide, and applicants to solicit and accept, broadband connections, devices, networking equipment, or other things of value that are directly related to addressing the pandemic-related needs of students, school staff, and library patrons through June 30, 2022.

2. *Suspension and Debarment*

The Commission's suspension and debarment rules applicable to the Universal Service Fund Programs are also applicable to the Emergency Connectivity Fund Program (47 CFR section 54.8 (Suspension and Debarment rules)).

N. **Special Tests and Provisions**

1. **Eligible Entities**

Compliance Requirements Section 254(h)(7) of the Communications Act, as well as the limitations on eligibility set forth in section 254(h)(4) of the Communications Act, will be used to determine eligibility to receive Program funding.

For purposes of the ECF Program, the same definitions of “elementary school,” “secondary school,” “library,” and “library consortium” that are used in the E-Rate rules, with one minor modification explained below. Elementary or secondary schools as defined in the Elementary and Secondary Education Act (20 USC 7801(19) and (45)) are eligible for funding. Under ECF Program rules, “an elementary school means an elementary school as defined in 20 U.S.C § 7801, a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.” See 47 CFR section 54.1700(g). A secondary school “means a secondary school as defined in 20 U.S.C. § 7801, a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law except that the term does not include any education beyond grade 12.” See 47 CFR 54.1700(k).

For the ECF Program, a library is defined as “(1) a public library; (2) a public elementary school or secondary school library; (3) a tribal library; (4) an academic library; (5) a research library;” and “(6) a private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.” See 47 CFR 54.1700(h). The Library Services and Technology Act (LSTA) was amended to make clear that tribal libraries are eligible for

support under the LSTA. Additionally, a library may also refer to a library consortium, which is defined as “any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For purposes of these rules, references to library will also include library consortium.” See 47 CFR section 54.1700(i).

The ECF Program eligible entities requirements are:

- a. Schools or libraries that are eligible for E-Rate support, are also eligible for the ECF program, consistent with Congressional direction in Section 7402 of the Act.
- b. Private schools that meet the definition of elementary or secondary schools as defined in the Elementary and Secondary Education Act (20 USC section 7801(19) and (45)), are nonprofit, and do not have an endowment exceeding \$50 million.
- c. A library’s eligibility depends on its funding as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges, and universities) are eligible.

Audit Objectives Determine that the entity that incurred the expenditure complies with the eligibility requirements.

Suggested Audit Procedures

- a. Ascertain that the entity that records expenditure meets eligibility requirements. One approach to verify the eligibility of an entity is to confirm whether the entity is receiving or has previously received E-Rate support. Information on E-Rate support is available at <https://opendata.usac.org/stories/s/E-rate-Tools/bneq-mh8b/>. Another approach is to confirm whether the school meets the definition of the Elementary and Secondary Education Act using data sets and search tools made available by the US Department of Education’s National Center for Education Statistics (available at <https://nces.ed.gov/ccd/> for information on public schools and <https://nces.ed.gov/surveys/pss/> for information on private schools). Similarly, the Institute of Museum and Library Services provides data sets and search tools that may be used to confirm whether the library meets the eligibility criteria (available at <https://www.imls.gov/research-tools/data-collection>). In addition, the entity itself could provide documentation sufficient to show eligibility.
- b. If the consortium lead entity or consortium member records the expenditure, verify that the entity meets eligibility requirements. Consortia members may be verified using the approaches described above. Note that the consortium lead entity is not required to be an eligible entity (see 47 CFR sections 54.500-54.501).

2. Restricted Purpose

Compliance Requirements

a. Unmet need

To ensure that funding is focused on *unmet need*, the Commission requires schools, library, and consortia to certify, as part of their funding application, that they are only seeking support for eligible equipment and/or broadband provided to students and school staff who would otherwise lack access to connected devices and/or broadband connectivity sufficient to engage in remote learning.

At the application stage, school need only provide the best estimates of their unmet need. They may use whatever method they deem appropriate for estimating unmet need and are not required to provide any documentation to support these estimates when they submit their ECF FCC Form 471 application. Here is a link to see the unmet need questions for schools on the application:

www.emergencyconnectivityfund.org/ecf-fcc-form-471/entity-information.

When schools file for requests for reimbursement, however, they should only request reimbursement for eligible equipment and services provided to students or school staff who would otherwise lack broadband services and/or devices sufficient to engage in remote learning. For example, if a school requested ECF funding to support the broadband services at the homes of 100 students based on an estimate of those that lacked services, but it determines during the school year that only 90 students have unmet need, the school should only seek reimbursement for the services provided to those 90 students. Schools may also be asked to provide documentation to support actual costs of assigned equipment and/or services after funds have been committed.

b. Per-location and per-user limitations

Per-location and per-user limitations will be imposed to maximize the use of limited funds. An eligible school or library will be reimbursed for no more than one connected device and no more than one Wi-Fi hotspot per student, school staff member, or library patron during the COVID-19 emergency period, and no more than one fixed broadband connection per location. However, unlike the per-location limit for fixed broadband, a similar per-location limitation will not be imposed on Wi-Fi hotspots because Wi-Fi hotspots distributed by schools and libraries may be insufficient for multiple users and many homes with multiple students, school staff, or library patrons may need more than one Wi-Fi hotspot to fully engage in remote learning. For purposes of the per-location limitation each unit in a multi-tenant environment (e.g., apartment buildings) will be considered as a separate location.

Audit Objectives Determine that program funds meet the restricted purpose test.

Suggested Audit Procedures

- a. Test a sample of transactions to determine compliance with the requirement to seek reimbursement for eligible equipment and services provided to students or staff who would otherwise lack broadband services and/or devices sufficient to engage in remote learning (i.e., with unmet needs). (Note: The student counts for unmet needs submitted on the FCC ECF Form 471 are the school/district's best estimate and therefore the focus should be on what is sought for the request for reimbursements). Request and review documentation supporting compliance with the requirement to request reimbursement for eligible equipment and services provided to students or staff who would otherwise lack broadband services and/or devices sufficient to engage in remote learning. Documentation may include asset inventories referenced in section F. above for Equipment Management, as well as ECF Program forms to review and compare application and invoicing forms and documentation.
- b. Request a sample of the library patron statements collected by the libraries to test the requirement that patrons would have otherwise lacked access to equipment or services sufficient to meet their educational needs, if not for the use of the equipment and/or service being provided by the library. Request and review library patron documentation supporting the certification statements and any other documentation to show compliance with ECF Program rules.
- c. Test a sample of asset and service inventories and other documentation from schools and libraries that support compliance with the per-location and per-user limitations.