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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 News Brief Dated February 16th](#).

Funding Status for E-Rate and ECF

E-Rate for FY 2022:

Wave 46 for FY 2022 was issued on Thursday, March 2nd, for \$7.60 million, none for North Carolina. Cumulative commitments to date are \$2.84 billion including \$71.1 million for North Carolina. Nationwide, USAC has funded 98.4% of the FY 2022 applications representing 95.5% of the requested funding.

ECF for 2021-2023:

Wave 29 for Windows 1 and 2 , and Wave 19 for Window 3, were [issued](#) on Wednesday, March 1st, for \$20.2 million including \$168 thousand for two North Carolina applicants. Total commitments for all three ECF windows are \$6.62 billion including \$189 million for North Carolina. Nationwide, USAC has funded 85.3% of the ECF applications representing 67.4% of the requested funding. Window 3 applications are now being funded down to the 65% rural band. Reported disbursements as of last Friday were \$2.85 billion.

ECF Inventory and Record Retention Reminders

The FCC issued a Public Notice ([DA 23-166](#)) last week reminding applicants of the inventory and unmet need records that must be retained to support ECF funding awards. Given the speed and

informal nature of the ECF application process, the detailed record requirements expressed by the FCC in this “reminder” Notice may come as an unwelcome surprise to some applicants.

Specifically, the FCC indicates that equipment inventories 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 distributed (or loaned out) and returned, or the date the school or library was notified that the device or other piece of equipment was missing, lost, or damaged.

Service inventories must include the following information:

- 1) Type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);
- 2) Broadband plan details, including upload and download speeds and monthly data cap;
- 3) The name(s) of the person(s) to whom the service was provided;
- 4) The service address (for fixed broadband service only);
- 5) The installation date of service (for fixed broadband service only); and
- 6) The last date of service, as applicable (for fixed broadband service only).

Applicants are also reminded to maintain documentation as to how they originally estimated “unmet need” and, more importantly, that they should request, or should have requested, reimbursement only for equipment and services provided to students, staff, or patrons who otherwise lacked broadband services and/or devices. The FCC notes that this means “that the applicant may request reimbursement for less than the estimated unmet need numbers used in their ECF FCC Form 471 funding application.”

In the event of an audit, the FCC noted the following:

- Schools “should expect to be asked for documentation to support the actual costs of assigned equipment and/or services after funds have been committed or disbursed, and how they determined their unmet need.”
- Libraries are required “to provide patrons with 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 patrons’ educational needs, and patrons must sign and return a statement saying they would otherwise lack such access.”

After reading these reminders, we encourage applicants to review — and perhaps supplement — the ECF documentation that they have on hand.

Updates and Reminders

Upcoming Dates:

- March 10 The Form 486 deadline for FY 2022 Wave 30. 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 31 | 03/17/2023 |
| Wave 32 | 03/23/2023 |
| Wave 33 | 03/31/2023 |
- March 28 Close of the FY 2023 Form 471 application window at 11:59 p.m. EDT.
- March 30 Reply 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](#)).

FCC Streamlined Decisions:

The FCC issued another set of “streamlined” precedent-based decisions ([DA 23-141](#)) 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 February’s streamlined decisions, the FCC:

1. E-Rate Dismissed:
 - a. Two Petitions for Reconsideration for failing “to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding.”
 - b. Two Requests for Review to allow appeals to be filed with USAC.
2. E-Rate Granted:
 - a. Five Requests for Review and/or Waiver characterized as dealing with improper service provider involvement apparently having led to recent COMADs for FY 1998 and FY 1999 applications. In an explanatory footnote, the FCC cited the 1999 Commitment Adjustment Order and noted that “special circumstances warrant a deviation from the competitive bidding rules for commitments or disbursements made with respect to funding year-one (FY 1998) applications because affected applicants in the first year of the E-Rate program may have reasonably relied on the funding commitments applicants received from USAC that did not expressly state that USAC or the Commission may seek adjustment of the commitments after an applicant’s receipt of the funding commitment and applicants did not have experience in the process.” Additionally, whereas the applicant did not retain the associated Form 470s (it being far beyond the required record retention period), USAC too was unable to provide copies.

- b. In six similar Requests for Review and/or Waiver, the FCC granted relief on the same basis for FY 1998 applications but denied the FY 1999 requests for which the Form 470s were available and clearly showed service provider involvement.
 - c. One Request for Waiver allowing the subsequent submission of discount calculation information.
 - d. One Request for Review granting additional time to respond to a USAC request for information.
 - e. One Request for Waiver for a late-filed Form 486 where the applicant “demonstrated good cause for the late filing.”
 - f. Five Requests for Review for ministerial and/or clerical invoicing errors involving incorrect application or funding request numbers, typographical errors, or missing items.
 - g. One Request for Waiver “to allow an extension of the deadline for service implementation when applicants demonstrated they were unable to complete service delivery because of time limitations imposed by late-issued funding commitments.”
 - h. Two Requests for Review and/or Waiver of the appeal filing deadline submitted “only a few days late, or within a reasonable period of time after receiving actual notice of USAC’s adverse decision.”
3. E-Rate Denied:
- a. Four Requests for Waiver of late-filed FY 2022 Form 471 applications.
 - b. One Request for Review of a late-filed Form 486.
 - c. Twenty-five Requests for Waiver for late-filed invoices or invoice deadline extension requests.
 - d. Five Requests for Waiver for untimely filed appeals or waiver requests.
4. No ECF-related decisions.

Seven Sentenced for E-Rate Fraud:

The U.S. Attorney’s Office for the Southern District of New York issued a [press release](#) announcing the sentencing of seven defendants who had previously pled guilty to defrauding the federal E-Rate program in connection with funds provided to private religious schools in Rockland County, New York. The defendants — both consultants and service providers — were sentenced to prison terms ranging from four years to “time served.”

As explained in the release:

The schools at issue in this case never received millions of dollars’ worth of these items and services for which the defendants billed the E-Rate program. In other cases, the schools and the defendants requested hundreds of thousands of dollars of sophisticated technology that served no real purpose for the student population. For example, from 2009 through 2015, one day care center that served toddlers from the ages of two through four requested over \$700,000 – nearly \$500,000 of which was ultimately funded – for equipment and services – including video conferencing and distance learning, a “media master system,” sophisticated telecommunications systems supporting at least 23 lines, and high-speed internet – from companies controlled by certain defendants. In still other instances, the schools received equipment and services that fulfilled the functions for which the schools had requested E-Rate funds (such as providing the school with internet access), but the schools and the defendants materially overbilled the E-Rate program for the items

provided in order to enrich themselves at the expense of the underprivileged children the program was designed to serve.

The defendants also perverted the fair and open bidding process required by the E-Rate program. Defendants who held themselves out as independent consultants working for the schools in truth worked for and were paid by other defendants who controlled vendor companies. These defendants presented the schools with forms to sign or certify, awarding E-Rate funded contracts to companies owned by several defendants. As a result of false and misleading filings, the defendants received millions of dollars in E-Rate funds for equipment and services that they did not, in fact, provide and which the schools did not use, and the defendants purporting to act as consultants accepted payments totaling hundreds of thousands of dollars from the vendors, despite falsely presenting themselves as independent of the vendors.

Although the U.S. Attorney's press release refers specifically to parochial schools in Rockland County, NY, many schools in New York and other states using the same consultant have seen their E-rate applications denied, subjected to selective review, and/or remained pending for four to five years.

USAC Emergency Connectivity Fund Program Newsletter of March 1 — More Reminders

[USAC's ECF Program Newsletter Dated March 1, 2023](#), references the FCC's Public Notice and provides additional reminders on the proper use of ECF funds. It makes the following additional points:

- Applicants should not be warehousing or requesting reimbursement for devices and/or equipment that are not being used by a student, school staff member, or library patron with unmet needs.
- Applicants and service providers should not seek reimbursement for the monthly recurring services associated with any devices or equipment that are not being used.
- The purchase of extra devices or equipment to account for anticipated equipment loss, breakage, or future need is ineligible for ECF support.
- The ECF Program also limits support to one connected device and one Wi-Fi hotspot per student, school staff member, or library patron.
- 1:1 device initiatives are not eligible for ECF support unless the devices requested fulfill an actual unmet need of a student, school staff member, or library patron.
- Equipment and services purchased for use solely at a school or library are ineligible for ECF support.

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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