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Funding Status for E-Rate and ECF

E-Rate for FY 2023:

The Form 471 application window for FY 2023 closed last Tuesday, March 28th. USAC has not yet released preliminary demand statistics, but a download from Open Data shows the following demand levels including \$91.8 million for North Carolina.

Cat.1	\$ 1,654,170,302
Cat.2	<u>1,285,752,333</u>
Total	\$ 2,939,922,635

Many FY 2023 applications have already been reviewed and are currently categorized as “Wave Ready.” These are likely to be funded when USAC begins issuing waves as is expected later this month. The FCC has already taken the two key procedural steps necessary to begin funding by: (a) establishing the inflation-adjusted E-rate funding cap for FY 2023 (see our [newsletter of March 13th](#)); and (b) approving this year’s PIA procedures (see [DA 23-263](#)).

E-Rate for FY 2022:

Wave 50 for FY 2022 was issued on Thursday, March 30th, for \$2.15 million, none for North Carolina. Nationwide, USAC has funded 98.6% of the FY 2022 applications representing 96.7% of the requested funding. Cumulative FY 2022 commitments to date are \$2.86 billion including \$71.1 million for North Carolina.

ECF for 2021-2023:

Wave 21 for Window 3 was [issued](#) on Thursday, March 30th, for \$2.84 million, none for North Carolina. Total commitments for all three ECF windows are \$6.62 billion including \$189 million for North Carolina. Nationwide, USAC has funded 86.2% of the ECF applications representing

67.6% of the requested funding. Window 3 applications are being funded down to the 65% rural band. Total disbursements as reported on March 24th were \$2.96 billion.

Cybersecurity Reply Comments

Cybersecurity reply comments to [DA 22-1315](#), due last week, all strongly supported the need to make advanced firewalls and other network security services eligible for E-rate funding under Category 2. Many of the reply comments, including numerous express comments, supported the initial comments filed by the Consortium for School Networking (“CoSN”) and other major educational organizations that urged the FCC to:

- Make advanced or next generation firewalls and related features eligible for E-rate Category 2 support beginning in FY 2024.
- Increase Category 2 funding levels, within the E-rate program’s existing aggregate cap, to cover modern firewalls.
- Provide this limited E-rate cybersecurity support in a manner that is minimally burdensome to applicants and permits schools and libraries to select the modern firewall technology most aligned to their needs.

Most impressive was a coalition letter coordinated by the [Los Angeles Unified School District](#) (“LAUSD”) and cosigned by over 350 school districts and other educational institutions asking the FCC “to take immediate action to protect our nation’s educational entities from cyberattacks by updating the definition of firewalls supported by E-Rate Category Two.” The LAUSD coalition also asked for a “modest increase to the Category Two budget allocation [to] benefit all school and library program participants by increasing local decision-making over the use of these important and much-needed dollars and allow for the use of E-Rate funds to bolster and maintain their IT security infrastructure.”

A call for increased funding for Category 2 within the current 5-year budget cycle was a common theme in the reply comments. The [SHLB Coalition](#), for example, called for a 10% increase. In a more detailed analysis, reflecting recent and projected inflation, the [New York State E-Rate Applicants](#) argued that 5-year budgets should reflect real or projected inflation over the term of the cycle. It noted that the current \$167 per student cap had been set in FY 2021 based on a 2.1% inflation adjustment from FY 2020. Using actual E-rate cap inflation factors for FY 2022 and FY 2023, and modest estimates of inflation for the following two years, the New York State E-Rate Applicants proposed a mid-cycle correction of Category 2 budget factors to \$200 per student for schools, \$5.50 per square foot for libraries, and a \$30,000 per entity minimum.

We were also pleased to see a filing by the Rodabough Education Group supporting a position first expressed in initial comments by the [Illinois Office of Broadband](#) and the New York State E-Rate Applicants that the firewall definition in the Category 2 section of the current Eligible Services List (“ESL”) for Category 2 is not limited to “basic” features. We take this to mean that the FCC

could redefine advanced firewalls as eligible under Category 2, conceivably even for the coming 2023 funding year, without modifying the FY 2023 ESL.¹

Given the universal support for cybersecurity eligibility by the entire educational community, and the availability of E-rate funding even within existing caps, we see no reason — except perhaps the lack of will — that the FCC does not, as a first step, move immediately to make advanced firewalls E-rate eligible under Category 2.

Updates and Reminders

Upcoming Dates:

- | | | | | | |
|----------|--|---------|------------|---------|------------|
| April 7 | The Form 486 deadline for FY 2022 Wave 34. More generally, the Form 486 deadline is 120 days from the FCDL date or from the service start date (typically July 1 st), whichever is later. Upcoming Form 486 deadlines are:
<table><tbody><tr><td>Wave 35</td><td>04/14/2023</td></tr><tr><td>Wave 36</td><td>04/21/2023</td></tr></tbody></table> | Wave 35 | 04/14/2023 | Wave 36 | 04/21/2023 |
| Wave 35 | 04/14/2023 | | | | |
| Wave 36 | 04/21/2023 | | | | |
| April 24 | Due date for submitting comments on the FCC’s Notice of Proposed Rulemaking (FCC 23-10) to further improve E-rate program rules and encourage greater Tribal participation (and potentially other small applicants) in the E-rate program (see our newsletter of February 6th). Reply comments are due by May 23 rd . | | | | |
| May 8 | Due date for submitting comments on the USDA’s proposed change to expand CEP participation by lowering the ISP threshold from 40% to 25% (see our newsletter of March 27th). | | | | |

FCC Streamlined Decisions:

The FCC issued another set of “streamlined” precedent-based decisions ([DA 23-246](#)) 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 March’s streamlined decisions, the FCC:

1. E-Rate Dismissed:
 - a. One Request for Waiver deemed moot based on invoicing records demonstrating full funding.
 - b. One Request for Waiver by the Florida Department of Management Services that was:
 - (a) dismissed as moot, in part, based on the service substitution provisions of the

¹ Eliminating the ineligible portions of firewalls filed in existing FY 2023 applications could be done in PIA by USAC or via applicant RAL changes.

- Hurricane Ian Order; and (b), denied, in part, because the Department failed to demonstrate the need to reset its Category 2 budget.
- c. Four 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.” In one case, the FCC reiterated its position “that waiver of the red light rule is not justified by asserting that the parties...failed to receive the notifications.”
 - d. Two Requests for Review to allow appeals to be filed with USAC.
2. E-Rate Granted:
- a. One Request for Review and/or Waiver allowing an extension of the contract end date.
 - b. One Request for Review approving a service reclassification (BMIC to IC).
 - c. Two Requests for Review and/or Waiver on discount calculations and five Requests for Waiver allowing additional time to submit discount calculation information.
 - d. Two Petitions for Reconsideration “where the evidence on reconsideration does not support the prior determination.”
 - e. Two Requests for Waiver granting additional time to respond to USAC information requests during invoicing.
 - f. One Request for Review to correct a Form 486 start date.
 - g. One Request for Waiver involving a late-filed Form 471 beyond 30 days.
 - h. Twelve Requests for Review for ministerial and/or clerical errors involving missing or mischaracterized services or costs, wrong contract dates, invoice errors, or special construction deadlines.
 - i. One Request for Waiver confirming support for Category 2 services purchased on or after April 1 before the funding year.
 - j. One Request for Waiver granting a late-filed extension of the service implementation deadline.
 - k. One Request for Waiver to permit invoicing of a service provided before the service delivery deadline but invoiced at a later date.
 - l. Three Requests for Waiver for late-filed invoices awaiting post-commitment decisions.
 - m. One Request for Waiver for an appeal submitted “only a few days late.”
 - n. One Request for Review and/or Waiver correcting a USAC discount rate calculation but denying a request for reimbursement for services deemed ineligible.
3. E-Rate Denied:
- a. Four Requests for Waiver of late-filed FY 2022 Form 471 applications.
 - b. Ten Requests for Waiver for late-filed invoices or invoice deadline extension requests.
 - c. One Request for Waiver and/or Review deemed untimely.
 - d. Five Requests for Waiver for untimely filed appeals or waiver requests.

4. ECF Dismissed:

- a. One Petition 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.”

USAC Emergency Connectivity Fund Program Newsletter of March 28 — Reimbursements

[USAC’s ECF Program Newsletter Dated March 28, 2023](#), provides a reminder checklist for completing reimbursement requests. The reminders include:

- A recommendation to visit SAM.gov to confirm active registration and certify banking information.
- A list of possible Post Commitment Requests.
- Lists of requirements and other guidance for submitting both equipment and service invoices.

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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