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## Funding Status for E-Rate and ECF

### *E-Rate for FY 2023:*

With the goal of releasing the first wave of the new funding year in April, USAC issued Wave 1 for FY 2023 on Saturday, April 29<sup>th</sup> for total funding of \$1.04 billion. This is the second year in a row that funding in the first wave has exceeded a billion dollars. Saturday's funding included \$31.0 million for 255 North Carolina applicants.

### *E-Rate for FY 2022:*

For the first time in a year, there was no FY 2022 funding wave last week. Following several weeks of very small funding waves, this is another indication that USAC has essentially completed its review of all but a few problematic applications for FY 2022. Now that FY 2023 funding waves have begun, we plan to stop reporting on FY 2022 funding. Nationwide, at this point, USAC has funded 98.6% of the FY 2022 applications representing 96.8% of the requested funding. Cumulative FY 2022 commitments to date are \$2.84 billion including. \$71.1 million for North Carolina.

### *ECF for 2021-2023:*

Wave 32 for Windows 1 and 2 , and Wave 23 for Window 3, were issued on Wednesday, April 26<sup>th</sup>, for \$20.9 million, none for North Carolina applicants. Total commitments for all three ECF windows are \$6.62 billion including \$189 million for North Carolina. Nationwide, USAC has funded 87.4% of the ECF applications representing 67.8% of the requested funding. Window 3 applications are being funded down to the 65% rural band. Total disbursements as last reported on April 14<sup>th</sup> were \$3.11 billion.

## Tribal NPRM Comments

The first round of comments was received last week on the FCC's Notice of Proposed Rulemaking ([FCC 23-10](#)) to further improve E-rate program rules and encourage greater Tribal participation. The most important and complete comments were submitted by the following organizations:

[ADS Advanced Data Services \(“ADS”\)](#)

[American Library Association \(“ALA”\)](#)

[National Tribal Telecommunications Association \(“NTTA”\)](#)

[SECA, SHLB, CoSN, and SETDA](#)

[United South and Eastern Tribes Sovereignty Protection Fund \(“USET SPF”\)](#)

[WTA – Advocates for Rural Broadband \(“WTA”\)](#)

The comments all expressed broad support for the FCC’s proposed changes to:

- Establish a definition of “Tribal” for the E-rate program. A definition referencing “Federally-recognized Tribes” was deemed an important distinction by some.
- Add a Tribal representative to USAC’s Board of Directors — supported by all.
- Allow Tribal college libraries that serve a dual role as a public library in their communities to be eligible for E-rate support — supported by all.
- Create an extended or separate application filing window for Tribal libraries. As an alternative, ADS and ALA suggested allowing 3- or 5-year “evergreen” funding commitments for Tribal, small, or rural libraries.
- Increase the maximum discount rate level for Category 2 services from 85% to 90% for Tribal schools and libraries. ADS suggested raising the discount to 95% for extremely rural areas.
- Increase the Category 2 five-year \$25,000 funding floor for Tribal schools and libraries. NTTA suggested a \$35,000 floor for Tribal libraries.
- Exempt all 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). Both WTA and ALA suggested raising the non-compete threshold to \$10,000 or doing away with it entirely for Tribal and other rural schools and libraries.
- Simplify or eliminate the cost allocation rules for libraries sharing equipment and services with ineligible entities. ALA recommended that Tribes be allowed to certify that a library building’s primary use is educational so that no cost-allocation would be required.

Of broader interest to all E-rate applicants was an extensive joint filing by the State E-Rate Coordinators’ Alliance (“SECA”), Schools, Health & Libraries Broadband Coalition (“SHLB”), Consortium for School Networking (“CoSN”), and State Educational Technology Directors Association (“SETDA”). While supporting the changes discussed above, the “Joint Commenters” focused on the FCC’s request for comments, not only for E-rate changes for Tribal applicants, but for other steps that could be taken to simplify the program for all. To this end, the joint filing recommended:

- Relief from many existing cost allocation requirements including:
  - Shared equipment costs in NIFs
  - All equipment attached to cabling
  - Next generation firewall features
  - Non-teaching services (e.g., health clinics) located inside schools and libraries

- Clarification and/or revisions of competitive bidding procedures including:
  - Simplified filing for small public libraries
  - Resolution of confusing Form 470 sections
  - Consistent treatment of technical support services and equipment licenses
  - Use of Category 2 funds for cabling between campus buildings
  - Simplification of leased dark fiber and self-provisioned networks
  - Better guidance on “cardinal changes”
  - Robo-bid exclusions from bid evaluation consideration
  - Treatment of bids received after the Form 470 Allowable Contract Date
  - Allowance for the use of multiple providers to obtain needed bandwidth
  - Allowance for mid-year bandwidth upgrades
- Form 471 simplifications including:
  - Revision of provisions regarding proof of legally binding agreements
  - Options to certify CIPA compliance and service start dates (avoiding the need to file a separate Form 486)
- Relaxation of stringent enforcement of invoice deadlines in line with the flexibility provided on other program deadlines

## Updates and Reminders

### *Upcoming Dates:*

May 5	The Form 486 deadline for FY 2022 Wave 38. More generally, the Form 486 deadline is 120 days from the FCDL date or from the service start date (typically July 1 <sup>st</sup> ), whichever is later. Upcoming Form 486 deadlines are: <table border="0" style="margin-left: 40px;"> <tr> <td>Wave 39</td> <td>05/12/2023</td> </tr> <tr> <td>Wave 40</td> <td>05/19/2023</td> </tr> <tr> <td>Wave 41</td> <td>05/26/2023</td> </tr> <tr> <td>Wave 42</td> <td>06/02/2023</td> </tr> </table>	Wave 39	05/12/2023	Wave 40	05/19/2023	Wave 41	05/26/2023	Wave 42	06/02/2023
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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 <a href="#">newsletter of March 27<sup>th</sup></a> ).								
May 23	Due date for submitting reply comments on the FCC’s Notice of Proposed Rulemaking ( <a href="#">FCC 23-10</a> ) to further improve E-rate program rules and encourage greater Tribal participation (and potentially other small applicants) in the E-rate program (see our <a href="#">newsletter of February 6<sup>th</sup></a> ).								
June 30	Unless subsequently extended by the FCC, at least for late-approved ECF Window 1 and Window 2 applications, June 30 <sup>th</sup> is the last day to receive service for home internet access and device purchases. The invoice deadline for these services is August 29, 2023.								

### *FCC Streamlined Decisions:*

The FCC issued another set of “streamlined” precedent-based decisions ([DA 23-333](#)) last week. This batch of decisions included a large number of approvals for waiver of FY 2023 Form 471 deadline for those late-filed applications certified within 14 days of the close of the window. 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 April’s streamlined decisions, the FCC:

1. E-Rate Dismissed:
  - a. Ten Requests for Review or Waiver, essentially dismissed as moot, because: (a) all submitted invoices had been fully paid; (b) the Form 471s had been timely filed; or (c), no adverse USAC decision had yet been issued.
  - b. One application for not complying with the FCC’s basic filing requirements.
  - c. Four Petitions for Reconsideration that were untimely filed or failed to identify any material reason warranting reconsideration.
  - d. One Request for Review dismissed to allow an appeal to be filed with USAC.
2. E-Rate Granted:
  - a. One Petition for Reconsideration for a ministerial and/or clerical invoice error.
  - b. One Petition for Reconsideration waiving an appeal filing deadline indicating that the issue should have been resolved on appeal by USAC.
  - c. Three Requests for Waiver granting additional time to respond to requests for information during invoicing.
  - d. One Request for Review involving an inadvertent FRN cancellation.
  - e. One Request for Review and/or Waiver involving an incorrect service delivery deadline in USAC’s system.
  - f. Two hundred and thirty Requests for Waiver for late-filed Form 471 applications filed within 14 days of the close of the window.
  - g. Nineteen Requests for Review or Waiver for ministerial and/or clerical errors.
  - h. One Request for Waiver approving support for Category 2 services purchased on or after April 1<sup>st</sup> before the funding year.
  - i. One Request for Waiver for a service implementation delay.
3. E-Rate Denied:
  - a. One Request for Waiver for a late-filed Form 471 application from an earlier funding year.
  - b. Ten Requests for Waiver for late-filed invoices or invoice deadline extension requests.
  - c. One Request for Waiver for relying on a Form 470 that did not seek bids on the types of E-rate services later requested.

- d. One Request for Review involving a partial invoice payment for only partially eligible services.
- e. Four Requests for Waiver for untimely filed appeals or waiver requests.
- 4. ECF Dismissed:
  - a. Two Requests for Review or Waiver where the invoice records show the applicants were fully compensated.
  - b. One Request for Review to allow an appeal to be filed with USAC.
- 5. ECF Granted:
  - a. One Request for Review finding that USAC had incorrectly determined that a service was ineligible.
  - b. One Request for Review for a ministerial and/or clerical error.
  - c. One Request for Waiver on a service delivery deadline.

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*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](mailto:join-ncerate@lists.dpi.state.nc.us). Please include your name, organization, telephone, and e-mail address.*

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