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## Funding Status for E-Rate and ECF

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

USAC issued Wave 10 for FY 2023 on Thursday, June 29<sup>th</sup>, for \$59.4 million including \$6.47 million for eight North Carolina applicants. Total funding is now \$1.48 billion including \$51.8 million for North Carolina. At this point, USAC has already funded 83.5% of the originally submitted applications representing 51.8% of the dollars requested.

### *ECF for 2021-2023:*

Wave 28 for Window 3 was [issued](#) on Wednesday, June 28<sup>th</sup>, for \$28.9 million including \$204 thousand for two North Carolina applicants. Total commitments for all three ECF windows are now \$6.75 billion including \$191 million for North Carolina. USAC has funded approximately 89% of the ECF applications representing 69% of the requested funding.

Window 3 applications are being funded down to the 50% urban band but could go lower if more funding becomes available. We encourage all applicants, that have been funded beyond their actual needs, to file Post-Commitment Requests (“PCRs”) to reduce their funding commitments and free up dollars for other needy ECF applicants.

## Enhancing Support for Connectivity in Tribal Communities

The FCC announced last week that it would be considering a Report and Order and Further Notice of Proposed Rulemaking at its July open meeting which would adopt new rules to enhance Tribal communities’ access to the E-Rate program. A [draft](#) of the proposed changes would streamline certain program rules, make Tribal college and university libraries eligible for E-Rate support, and reduce administrative burdens in the program. The FCC will also seek comment on ways to further improve and simplify program rules for all E-Rate applicants.

The Report and Order portion of changes that the FCC is proposing, primarily focusing on Tribal libraries, would:

- Update program rules to allow Tribal college and university libraries, that serve as public libraries in their communities, to apply for and receive E-rate support.
- Update program rules to create an exemption to the competitive bidding requirements for all libraries seeking E-rate support for Category 2 services that total a pre-discount price of \$3,600 or less per library per funding year.
- Update program rules to increase the maximum Category 2 discount rate to 90% and the Category 2 funding floor to \$55,000 for Tribal libraries.
- Provide guidance on cost allocation issues experienced by applicants.
- Adopt a definition of “Tribal” for the E-rate program.
- Amend the Commission’s E-rate program rules to add a Tribal community representative to the USAC Board of Directors.
- Direct USAC to provide increased outreach and training to Tribal applicants.

Of broader interest to E-rate applicants, the FCC’s Further Notice of Proposed Rulemaking will seek comments on other changes to the E-rate rules that, if approved, would:

- Treat multi-year BMIC software-based services the same as multi-year licenses making them fully eligible in the first year.
- Provide additional guidance on: (a) requesting E-rate support when transitioning services between two providers in the same year; and (b), duplicative services.
- Clarify or modify competitive bidding requirements to: (a) increase the *de minimis* library requirement from \$3,600 to \$10,000; (b) allow applicants to seek bandwidth increases within funding cycles; (c) provide guidance on restarting competitive bidding when appropriate; (d) handle spam bids and bids received after the 28-day waiting period; and (e), clarify evidence of a “legally binding agreement.”
- Seek comments on streamlining E-rate program forms including: (a) creating an “EZ” application form; (b) simplify the Form 470 drop-down menu options; and (c), modifying or eliminating the Form 486.
- Update program definitions to: (a) handle the distinction between WANs and internal connections between two contiguous schools; and (b) align the E-rate and ECF definitions of “consortium.”
- Modify invoice and disbursement standards with respect to deadline extensions to allow applicants to request a one-time 120-day extension of an invoice deadline if filed within 15-days of the initial invoice deadline.

Most importantly, on this last point, the FCC indicates that while it is “revisiting our overall approach to the invoice filing deadline,” it will “modify on an interim basis” its prior guidance. In particular, while the Wireline Competition Bureau (“WCB”) remains free to grant invoice waivers under current Commission rules, the FCC directs the WCB “to leave the remaining waiver requests pending for now, and we will provide further guidance regarding the disposition of those waiver requests at the resolution of this proceeding.”

Assuming the draft Report and Order and Further Notice of Proposed Rulemaking is adopted at the July 20<sup>th</sup> meeting, the new Tribal rules — and the interim WCB treatment of invoice deadline waivers — will go into effect 30 days after publication in the *Federal Register*. At the same time, a comment period will be set for the Further Notice of Proposed Rulemaking.

## Updates and Reminders

### *Upcoming Dates:*

July 7                      The Form 486 deadline for FY 2022 Wave 47. 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:

Wave 48	07/14/2023
Wave 49	07/21/2023
Wave 50	07/28/2023

The first Form 486 deadline for FY 2023, for FCDLs issued on or before July 1<sup>st</sup> — normally October 29<sup>th</sup> (which is a Sunday this year) — will be Monday, October 30, 2023.

July 20                      FCC’s monthly open meeting is to include a vote on changes to the E-rate rules to make it easier for tribal libraries to apply and to seek further comment on ways to simplify the application process for all E-rate applicants (see [draft order](#) and discussion above). A [live webcast](#) of the meeting will be available.

### *\$42.45 Billion BEAD Internet Grants:*

The Department of Commerce’s National Telecommunications and Information Administration (“NTIA”) [announced](#) last week that it has allocated \$42.45 billion in funding to all 50 states, the District of Columbia, and five territories to support the deployment of affordable, reliable high-speed Internet service to everyone in America. Funding is being provided under the Broadband Equity, Access, and Deployment (“BEAD”) Program under the Infrastructure Investment and Jobs Act (“IIJA”) of 2021. Funding priorities for the program are to provide broadband internet services sequentially to:

1. “Unserved” areas with internet services of less than 25 Mbps download/3 Mbps upload capacity;
2. “Underserved” areas with internet services of less than 100 Mbps download/20 Mbps upload capacity; then
3. Community “anchor institutions” (historically, universities, health care systems, and other organizations with significant geographic or market presence).

States were expected to receive formal notification of awards by June 30<sup>th</sup> and have 180 days to submit their Initial Proposals, many of which are already in the planning stages, describing how

they propose to run their grant programs. Funding allocations by state, reflecting Federal estimates of current broadband internet availability, include \$1.33 billion for North Carolina.

*“Learn Without Limits” Initiative:*

Last week, in a [speech](#) at the American Library Association’s (“ALA”) annual conference and in a subsequent [press release](#), FCC Chairwoman Rosenworcel renewed her proposal to provide E-rate support for Wi-Fi on school buses. More significantly, she announced a new “Learn Without Limits” initiative that would also support E-rate funding for hotspots that schools and libraries could loan to students and patrons in need. Full Commission support for this initiative is in no way a forgone conclusion and may depend on a swing vote of a fifth Commissioner who has been nominated but not yet confirmed by the Senate.

We have long been a supporter of E-rate eligibility for Wi-Fi on school buses that we believe is both needed and affordable within the current constraints of E-rate funding. The affordability of E-rate funded hotspots, particularly if viewed broadly as an extension of the short-term ECF program, is a more daunting prospect. We suspect that the viability of E-rate funding for hotspots will depend critically on regulatory definitions of “loans” and student and patron “needs.” We await further details of the Chairwoman’s “Learn Without Limits” initiative.

*FCC Streamlined Decisions:*

The FCC issued another set of “streamlined” precedent-based decisions ([DA 23-557](#)) last week. This batch of decisions included a large number of approvals for waivers of the FY 2023 Form 471 deadline for those late-filed applications certified within 14 days of the close of the filing 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 June’s streamlined decisions, the FCC:

1. E-Rate Dismissed:
  - a. Three Petitions for Reconsideration for failure to identify any material error, omission, or reason warranting reconsideration.
2. E-Rate Granted:
  - a. One Request for Waiver granting additional time to respond to a USAC request for information.
  - b. One Petition for Reconsideration for a late-filed Form 471.
  - c. One Request for Waiver for an incorrect service start date on a Form 486.
  - d. Forty-six Requests for Waiver for late-filed FY 2023 Form 471 applications filed within 14 days of the window close.
  - e. Two Requests for Waiver for ministerial and/or clerical errors involving FRNs omitted from Form 471s.
  - f. Five Requests for Waiver for ministerial and/or clerical errors involving invoicing.

- g. One Request for Waiver on a signed contract requirement.
- h. One Request for Waiver and Review on an appeal filing deadline.
- i. Two Requests for Waiver of the special construction service delivery deadline.
- 3. E-Rate Denied:
  - a. Twenty-eight Requests for Waiver on FY 2023 Form 471 applications filed more than 14 days late and failing to present special circumstance justifying waivers.
  - b. Six Requests for Waiver for late-filed invoices or invoice deadline extension requests.
  - c. Three Requests for Waiver for untimely filed appeals or waiver requests.
- 4. ECF Granted:
  - a. Three Requests for Waiver involving the early delivery of equipment.
  - b. One Request for Review and/or Waiver granting additional time to respond to USAC's request for information.
  - c. One Request for Waiver for a late-filed Form 471 due to technical problems with USAC's electronic filing system.
  - d. Three Requests for Review for ministerial and/or clerical errors.
  - e. One Request for Review and/or Waiver providing evidence of payment upon appeal.
  - f. Two Requests for Waiver of the appeal filing deadline, one due to a USAC error.
  - g. One Request for Review and/or Waiver involving payment verification.
  - h. One Request for Waiver on a service delivery date.
  - i. One Request for Waiver of the special construction service delivery date.
- 5. ECF Denied:
  - a. Two Requests for Waiver of untimely filed appeal or waiver requests (reminding applicants in a footnote that the ECF filing deadline for appeals and waivers is 30 days, not 60 days as in E-rate).

## **USAC Emergency Connectivity Fund Program Newsletter of June 30 — Invoicing**

[USAC's ECF Program Newsletter Dated June 30, 2023](#), discusses the payment timeline for ECF invoice reimbursements noting that it can take up to five days for the FCC to process a payment with the U.S. Treasury, and for the funds to be disbursed into the bank account on file with SAM.gov. The U.S. Treasury will issue a notification to the contacts in SAM.gov when the amounts are deposited. If there is an issue with payment, please check your SAM.gov account to ensure all information is valid and has not expired. You may also contact the U.S. Treasury at (855) 838-0743 or via the [Treasury Check Information System](#).

Last week's ECF newsletter also reported that USAC has launched the new [Emergency Connectivity Fund Invoice Deadline Tool](#), an Open Data tool that can be used to determine invoice deadline dates and the amount of funds left on an approved Funding Request Number ("FRN").

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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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