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Funding Status for E-Rate and ECF

E-Rate for FY 2023:

USAC issued Wave 23 for FY 2023 on Thursday, September 28th, for $18.1 million including $4.4 thousand for one North Carolina applicant. Total funding is now $2.21 billion including $81.7 million for North Carolina. At this point, USAC has funded 94.0% of the originally submitted applications representing 76.0% of the dollars requested.

ECF for 2021-2023:

Total commitments for all three ECF windows are at $6.44 billion including $188 million for North Carolina. $76.5 million for New Mexico.

Proposed Declaratory Ruling on School Bus Wi-Fi Eligibility

With the addition of Anna Gomez as the fifth FCC Commissioner (see article below), the FCC appears to be on the verge of approving E-rate eligibility for Wi-Fi on school buses. The proposal, in the form of a Declaratory Ruling, already in circulation, is on the agenda for the FCC's next Open Meeting on October 19th. An introductory Fact Sheet indicates that the Ruling would:

- Clarify that use the use of Wi-Fi, or other similar access point technologies, on school buses is an educational purpose and the provision of such service is therefore eligible for E-rate funding.

- Direct the Wireline Competition Bureau ("WCB") to fund the provision of these services, as well as any E-rate eligible equipment needed to enable them, as part of the funding year 2024 Eligible Services List ("ESL")proceeding.

- Direct the WCB to issue a supplemental funding year 2024 Eligible Services List Public Notice seeking comment on the specific services and equipment that should be funded for this purpose, and on the costs associated with funding these services through the E-rate program.
- Enhance the benefits and the reach of the E-rate program to ensure that the millions of students caught in the Homework Gap can more fully engage in their learning.

The timeline for making school bus Wi-Fi eligible for FY 2024 is aggressive, but is consistent with the June 30, 2024, deadline for using Window 3 ECF funding that currently supports such services. To accomplish this, the FCC will have to fast track the supplementary ESL Public Notice. The regular Eligible Services List for FY 2024 is already out for public comment with initial replies due October 12th and reply comments due October 26th. Release of the final ESL is a necessary condition for the opening of the FY 2024 Form 471 application window scheduled for mid-January.

The eligibility of school bus Wi-Fi is not without its detractors. Most notable was a letter sent to Chairwoman Rosenworcel last July from Senator Ted Cruz (R, TX) and Representative Cathy McMorris Rodgers (R, WA).

There are several compelling arguments in favor of school bus Wi-Fi, namely:

- The buses can serve as "rolling study halls" for students commuting long distances to and from home or school events (e.g., away sports) and/or for those without home internet services.[1]
- The cost of equipment and services is reasonable (estimated in the Declaratory Ruling at $1,810 per bus per year).
- The availability of Wi-Fi access on school buses has advantages beyond pure education. In addition to supporting school bus tracking, schools that have employed the service have noticed a marked drop of on-bus behavioral problems (with a corresponding reduction in driver turnover).

Assuming that school bus Wi-Fi is added to the ESL for FY 2024, the change is unlikely to be formalized until at least December. Without knowing exactly how the service will be characterized, applicants eager to initiate their competitive bidding process in the next month or two can include bus Wi-Fi service on a Form 470 as Category 1 Internet service and Category 2 wireless access equipment while providing more descriptive explanations in the narrative sections and/or an RFP. Use of an RFP is strongly recommended as means of providing subsequent clarifications as bus Wi-Fi rules are clarified.

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[1] Another of Sen. Cruz's concerns, that E-rate would just be paying for student TikTok usage, can be resolved with proper filtering.

Filed Comments of the FCC's FNPRM

Last Monday was the deadline for submitting initial comments to the FCC's Further Notice of Proposed Rulemaking ("FNPRM") concerning simplifications to the E-rate program rules. Links to the filings by major E-rate and Edtech organizations are listed below.

> [American Library Association ("ALA")](#)
> [Council of the Great City Schools](#)
> [E-Rate Management Professionals Association ("E-MPA")](#)
> [NCTA – The Internet & Television Association](#)
> [Schools, Health & Libraries Broadband ("SHLB") Coalition](#)
> [State E-Rate Coordinators' Alliance ("SECA")](#)
> [US Telecom – The Broadband Association](#)

While not every organization addressed all of the FCC's proposals, support for the proposals was consistently non-controversial. These are all changes that we believe should be made. Most broadly, the SECA comments made the following recommendations in response to the proposal and/or questions set forth in the FCC's FNPRM:

1. Mid-year bandwidth increases should be allowed and funded by E-rate.
2. Applicants should have the option of validating and using the same discount rate for five years.
3. Due to evolving aspects of the National School Lunch Program, other standardized measures of family income should be allowed for discount validations.
4. The FCC should establish clear standards for allowable Form 470 procurement updates without requiring applicants to extend the bid deadline.
5. Recommended measures to streamline applying for eligible services:
    a. Software updates, patches, and basic technical support should be classified as Internal Connections.
    b. MIBS and the remaining features of BMIC should be merged into one service definition.
    c. Wiring between two or more buildings on a single campus should qualify for Category 1 or Category 2 funding.
    d. The bidding requirements of leased dark fiber and leased lit fiber should be identical.
6. The FCC's proposed solutions for the implementation of the transition of services should be adopted.
    a. Post-commitment SPIN changes and split FRNs should allow monthly pre-discount increases when supported by applicant documentation.
    b. EPC should be modified to allow for the proration of monthly recurring services.
7. The legally binding agreement requirement should be administered in accordance with prior FCC orders and waivers.
8. Preferred master contracts should be established.

9. Uniform bidding exemptions should be adopted for all applicants.
    a. The proposed bidding exemption, for library purchases of less than $10,000 of E-rate equipment or services, should also be applied to schools.
    b. The Category 2 $3,600 bidding exemption should also be applied to schools.
    c. The current Category 1 $3,600 bidding exemption for internet should be applied to all Category 1 services and equipment.
10. A fixed Category 2 Form 471 window deadline should govern all applicants.
11. Applicants should not be obligated to consider or retain generic emails and documents from vendors that do not meet the definition of an offer.
12. The Form 470 bid deadline should be presumed to be 11:59 pm ET on the day before the Allowable Contract Date unless a later deadline is specified in the Form 470 or bid documents.
13. A competitive bidding portal will not mitigate spam emails or submission of late bids.
14. Streamlining E-rate program forms and EPC functionality will benefit stakeholders and improve the Administrator's efficiency.
15. Invoicing streamlining measures should be adopted.
    a. Invoice reminder notices, ordered in the Tribal order, should be augmented with "Urgent reminder" letters that allow applicants to file their invoices, or obtain an automatic invoice extension, within 15 days of the date of the notice without having to file a waiver request with the FCC.
    b. USAC should have the authority to grant appeals of zero paid invoices or reduced invoice payments, and to allow for resubmission of the invoice without requiring a request for waiver of the invoice deadline.
    c. The regulatory provisions for discounted billing and submissions of SPIs should be clarified.
16. Dismissal of applications and forms when an applicant or service provider is placed on Red Light should be changed so that the forms would be put on hold pending resolution of the Red Light issue.
17. The E-rate consortium definition should be updated.

Reply comments on the FNPRM are due October 23rd.

Updates and Reminders

Upcoming Dates:

October 2	Last day to receive service, or to submit a Service Delivery Deadline request, for FY 2022 non-recurring services. (Note: September 30th, the normal Service Delivery Deadline, was on Saturday this year.)
October 3	First 2023 fall USAC training webinar E-Rate Program Overview. For the full schedule see USAC's E-Rate News Brief dated September 21, 2023.

October 6	Revised due date ([DA 23-852](#)) for comments on the FCC's Notice of Proposed Rulemaking ([FCC 23-65](#)) on cybersecurity labeling for internet devices (see our [newsletter of August 14th](#)). Reply comments are due November 10th.
October 12	Due date for comments on the FCC's Draft Eligible Services List for FY 2024 ([DA 23-819](#)). Reply comments are due October 26th.
October 13	USAC's one-day E-rate in-person training in Washington, DC. Limited space was fully subscribed as soon as the training was [announced](#) but training material should become publicly available shortly before the training date.
October 19	FCC Open Commission Meeting to include consideration of a Declaratory Ruling allowing E-rate funding for Wi-Fi on school buses.
October 23	Due date for reply comments on the FCC's Further Notice of Proposed Rulemaking portion of ([FCC 23-56](#)) regarding additional rule changes to simplify E-rate.
October 24	Official opening of the EPC administrative window allowing applicants to update entity profiles (including student counts and NSLP percentages) in advance of the FY 2024 application window. USAC will close the administrative window shortly before the Form 471 application window opens in mid-January at which point EPC entity profiles will be locked.
October 24	Nominations due for six positions, including one school representative, on the USAC Board of Directors (see [DA 23-753](#)).
October 30	E-rate invoice deadline for FY 2022 recurring services. (Note: October 28th, the normal invoice deadline, falls on a Saturday this year.) This is also the deadline for requesting an invoice deadline extension for the same FRNs.
October 30	ECF invoice deadline for most Window 1 and Window 2 committed FRNs with service delivery deadlines of June 30, 2023. For details on other upcoming invoice deadlines, see USAC's [Emergency Connectivity Fund Invoice Deadline Tool.](#)
October 30	First Form 486 deadline for FY 2023, for FCDLs issued on or before July 1st (i.e., Waves 1-9).
	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. The Form 486 deadline for FCDL's issued in Wave 10 would normally have been November 3rd (now probably November 7th as result of the EPC shutdown through November 6th).
October 30 – November 6	USAC [announced](#) that EPC will be unavailable to all users from October 30th at 11:59 p.m. through November 6th as the FCC transitions the BEAR invoice filing process from its old legacy system into EPC.
	Reminder: Once this transition is complete, Account Administrators should review the BEAR filing permissions in EPC to make sure that the correct BEAR filer(s) is authorized. Last December, USAC carried legacy system

permissions into EPC, but any new BEAR permissions established in the legacy system so far in 2023 will have to be reestablished in EPC.

November 7   Second three-day E-rate "Boot Camp" run by NCDPI to be held in the Research Triangle.

November 20   Tribal Board member nominations due (see DA 23-903).

USDA Lowers CEP's ISP Threshold to 25%:

The U.S. Department of Agriculture ("USDA") has finalized its new rules reducing the school eligibility threshold for participation in the Community Eligibility Provision ("CEP") program from an Identified Student Percentage ("ISP") of 40% to 25%. This will permit more schools (or groups of schools) to adopt CEP and provide free meals to all their students.

Under the USDA's rules, which take effect October 26th, CEP eligibility must be established by April 1 prior to the first school year of CEP participation. This means that the new CEP designation would not be available until the 2024-2025 school year. Several states have already applied for waivers to receive earlier implementation.

For E-rate discount rate purposes, NSLP percentages under CEP will still be calculated using the 1.6x ISP multiplier. This means that CEP schools at the new 25% threshold level would have an NSLP percentage of 40% and a discount rate of 60% (urban) or 70% (rural).

Anna Gomez Sworn In as Fifth FCC Commissioner:

Anna Gomez has been sworn in as the fifth FCC Commissioner (see Ms. Gomez's statement). The Commission is finally, after two years, back up to its full strength with three Democratic and two Republican Commissioners.[2] The change is expected to get several of Chairwoman Rosenworcel's initiatives back on track. Most importantly, from an E-rate prospective, this includes her "Learn without Limits" proposals to make Wi-Fi on school buses and hotspot loans eligible as to establish a $200 million pilot program funding cybersecurity equipment and services. The school bus Wi-Fi proposal (see article above) appears to be first up for Commission consideration and has already been placed on the agenda for the Commission's October 19th Open Meeting.

Nominations Open for New Tribal Board Member Position:

The FCC issued a Public Notice (DA 23-903) seeking nominations for the new USAC Tribal Board member position created in the Tribal Order (FCC 23-56) that became effective September 18th. Nominations are due by November 20th.

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[2] The 3:2 split traditionally favors the President's party.

USAC Emergency Connectivity Fund Program Newsletter of September 26 — Miscellaneous

USAC's ECF Program Newsletter Dated September 26, 2023, touches briefly on the following topics:

- The FCC's relief order (DA 23-805) for applicants and service providers adversely affected by Hurricane Idalia.

- Invoice appeal information including a reminder that the ECF appeal deadline is 30 days.

- Reference to the ECF Invoice Deadline Tool to determine the amount of funds left on an approved funding request.

- ECF program compliance and other "friendly" reminders.

- Links to other ECF web resources.