



- Funding Status
 - E-Rate for FY 2024
 - E-Rate for FY 2023
- Draft of E-Rate Wi-Fi Hotspot Order
- Updates and Reminders
 - Upcoming Dates
 - Black-Robed Regulators?
- USAC E-Rate News Brief Dated June 27 – Getting Ready for Invoicing, et al

Funding Status

E-Rate for FY 2024:

Wave 10 for FY 2024 was released on Thursday, June 27th, for \$70.2 million including \$313 thousand for twelve North Carolina applicants. Total funding is now \$1.58 billion including \$54.1 million for North Carolina. At this point, USAC has funded 80.6% of the originally submitted applications representing 51.8% of the dollars requested.

E-Rate for FY 2023:

USAC released Wave 57 for FY 2023 on Friday, June 28th. This was a small wave approving just \$2.25 million for six applicants, over half for one applicant in Puerto Rico. Cumulative funding for FY 2023 stands at \$2.63 billion.

Draft of E-Rate Wi-Fi Hotspot Order

The FCC announced last week that its plan for E-rate-supported Wi-Fi hotspots and wireless internet services for schools and libraries will be considered later this month at the Commission's July Open Meeting on Thursday, July 18th. A [draft](#) of the proposed Report and Order, Further Notice of Proposed Rulemaking was also released last week. Approval of the FCC's hotspot initiative is expected, albeit in a partisan vote supported by the FCC Chairwoman and the two Democratic Commissioners.

If approved by the FCC, Wi-Fi hotspots and related wireless internet service would become eligible for E-rate funding as a Category 1 service for FY 2025. We would expect that the hotspot equipment and services, much as they had been eligible under the ECF program, to be incorporated in the public draft of the FY 2025 Eligible Service List, typically released in September.

One major difference that applicants will see between hotspot eligibility in the now expired ECF program and its E-rate reincarnation is that E-rate funding will be governed by three-year applicant budgets that will effectively limit the number of hotspots available to be "loaned" at any given

time to students and patrons. The hotspot budgets for both schools and libraries will be determined by the formulas below.

$$\text{Independent School or District Budget} = [\text{student count} \times \frac{20 \text{ hotspots}}{100 \text{ students}} \times \text{C1 discount rate}] \times \$630$$

$$\text{Library or Library System Budget} = [\text{square feet} \times \frac{5.5 \text{ hotspots}}{1000 \text{ square feet}} \times \text{C1 discount rate}] \times \$630$$

Four important points should be noted concerning the school and library budget formulations:

1. The value in the brackets above is to be rounded up to the nearest ten. That makes small schools and libraries eligible for at least ten devices.
2. Budgets cover three full funding years, FY 2025 – FY 2027.
3. The \$630 factor reflects a \$90 hotspot equipment charge and 36 months of wireless internet service at \$15/month ($\$90 + (36 \times \$15) = \630). It is not clear from the draft Order whether applicants applying for less than 36 months of service in the first three-year cycle will find their budgets reduced accordingly.
4. Although Head Start, pre-kindergarten, and kindergarten students are deemed ineligible for funded hotspot services, student counts used for hotspot budget calculations will be the same as used for Category 2 budgets.

Other key aspects of the Report and Order focus on:

1. A wide range of safeguards, including:
 - a. Requirement to ensure the hotspot program serves an educational purpose.
 - b. Measures to prevent the warehousing of hotspots and reimbursements for unused equipment and/or services.
 - c. Recordkeeping requiring the maintenance of detailed asset and service inventories.
 - d. Avoidance of duplicative funding from other sources.
 - e. Equipment disposal set at the three-year point.
 - f. Audits and other compliance tools.
2. Applicability of the Children’s Internet Protection Act (“CIPA”), including a reference to the type of filtering employed by Farmington Municipal School District in New Mexico referenced in our [newsletter of April 15th](#) with respect to controls adopted for a school bus Wi-Fi application.

The hotspot Order also includes a Further Notice of Proposed Rulemaking (“FNPRM”) seeking additional comments on:

1. A further refinement of program rules to determine a fair and administratively feasible mechanism to set clear limits on E-rate support for hotspot devices that have been distributed, but that may have limited periods of non-use, without unfairly burdening both applicants and service providers.
2. Active steps that could be taken to ensure that E-rate-supported Wi-Fi hotspots are being used by the students, school staff, and library patrons to whom they are distributed.

3. Additional steps that could be taken to reduce the amount of E-rate funds being spent on Wi-Fi hotspots and services that are not being actively used by the intended users.
4. Whether information reported to the FCC or the Administrator pursuant to the requirements adopted above relating to data usage reports and asset and service inventories are “data assets” potentially subject to the requirements of the OPEN Government Data Act.

Assuming that the Report and Order and the FNPRM is approved at the FCC’s July 18th Open Meeting, we would expect a final version to be released within the following couple of weeks including the establishment of the comment period for the FNPRM. Meanwhile, USAC is clearly moving forward to implement the program for FY 2025. To this end, USAC announced that the Form 470 for FY 2025, which will need to be updated to support competitive bidding for hotspots and wireless internet service, will be delayed from its normal July 1st introduction. We remind applicants who may wish to begin a FY 2025 procurement cycle now for other products and services that they can use the existing FY 2024 Form 470 but that they should clearly indicate in that form’s narrative section that they are seeking new contracts for FY 2025.

Updates and Reminders

Upcoming Dates:

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|---------------|---|---------|------------|---------|------------|---------|------------|
| July 1 and 10 | USAC will hold rescheduled versions of its cybersecurity webinar on both days. Registration information is available for both on July 1 and July 10 . Those interested in a more detailed discussion may want to review a recording of the Cybersecurity Pilot webinar hosted by E-Rate Central on July 26 (see slides). | | | | | | |
| July 5 | Form 486 deadline for FY 2023 Wave 46. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (typically July 1 st), whichever is later. Upcoming Form 486 deadlines are: <table border="0" style="margin-left: 40px;"> <tr> <td>Wave 47</td> <td>07/12/2024</td> </tr> <tr> <td>Wave 48</td> <td>07/19/2024</td> </tr> <tr> <td>Wave 49</td> <td>07/26/2024</td> </tr> </table> <p>The first Form 486 deadline for FY 2024, for applicants funded on or before July 1st, will be October 29th.</p> | Wave 47 | 07/12/2024 | Wave 48 | 07/19/2024 | Wave 49 | 07/26/2024 |
| Wave 47 | 07/12/2024 | | | | | | |
| Wave 48 | 07/19/2024 | | | | | | |
| Wave 49 | 07/26/2024 | | | | | | |
| July 18 | FCC Open Meeting to include consideration of the proposed Report and Order and Further Notice of Proposed Rulemaking to make off-premises use of Wi-Fi hotspots and wireless internet service eligible for E-rate funding (see draft Order currently on circulation). | | | | | | |
| August 29 | Invoice deadline for ECF Window 3 applications. ¹ Please note that invoice deadline extension requests are unlikely to be approved. | | | | | | |

¹ The government funding bill passed in March 2024 rescinds \$1.768 billion from the ECF program. As a result, the FCC and USAC are now prevented from: processing post-commitment requests to change service providers or invoicing methods; approving a commitment if an appeal or waiver is granted; or making upward commitment adjustments to resolve errors (see [USAC’s ECF Newsletter for June](#)).

Black-Robed Regulators?:

An [article](#) in last week's newsletter discussed several recent and/or pending court cases potentially impacting E-rate. On a broader scale last week, the U.S. Supreme Court overturned a forty-year precedent established in the *Chevron v. National Resources Defense Council* case that had required the courts to defer to regulatory agencies' reasonable interpretation of statutory rules deemed ambiguous. According to the *New York Times*, the *Chevron* decision had been relied on in seventy other Supreme Court decisions and 17,000 lower court decisions in the ensuing years. By overturning the *Chevron* decision, the fear is that many established regulatory rules may be subjected to court challenges with all the uncertainty that would entail.

For the E-rate community, the concern is whether this Supreme Court decision might force a reconsideration of the Telecommunications Act of 1996 that originally established the E-rate program. More specifically, we would be concerned about court challenges to the Commission's majority interpretation that the Telecom Act is broad enough to cover the two new off-campus E-rate programs — school bus Wi-Fi and hotspots.

Although we do not always agree with every small nuance of FCC decisions on E-rate, we do rely on the Commission's expertise in these matters. Let us hope that regulatory decisions of this nature are not transferred to black-robed judges with little experience in the E-rate world.

USAC E-Rate News Brief Dated June 27 – Getting Ready for Invoicing, et al

[USAC's E-Rate News Brief dated June 27, 2024](#), covers the following areas:

- An overview of the Selective Review process.
- Requesting a service delivery deadline extension for special construction services. Note: The deadline for requesting this extension — normally June 30th, falling on a Sunday this year — is Monday July 1st.
- Reminder to service providers to file their Form 473 (Service Provider Annual Certification or "SPAC") for FY 2024 to enable SPI or BEAR invoicing for the new year.
- Reminders for getting ready for invoicing.
- Quick summary of the Cybersecurity Pilot Program (see USAC's July 1 and July 10 webinars).
- USAC's FY 2024 training and outreach.

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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