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Funding Status

E-Rate for FY 2024:

Wave 15 for FY 2024 was released on Thursday, August 1st for $76.6 million including $1.30 million for nine North Carolina applicants. Total funding is now $1.88 billion including $56.4 million for North Carolina. At this point, USAC has funded 88.1% of the originally submitted applications, representing 62.1% of the dollars requested.

FCC Releases Final Hotspot Report and Order

The FCC's Report and Order making hotspots eligible for E-rate funding in FY 2025, approved at the FCC's Open Meeting on July 18th, was released last week. The final version (FCC 24-76) was virtually the same as the previously circulated draft version (see our newsletter of July 1). One addition in the final Order was three paragraphs on gift rules and bundling noting that aspects of these rules, which had been relaxed for ECF during the pandemic, are back in full force.[1]

We strongly urge applicants interested in hotspots to watch the recording of the hotspot webinar (video and/or slides) sponsored by SHLB last week. Taken together, the three panelists stressed different aspects of the hotspot program including:

- Three-year prediscount budgets are based on an applicant's size (a school's enrollment or a library's square footage) and discount rate using the following formulas:

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[1] Other smaller changes clarified that eligibility was limited to hotspots and related services, not other wireless options. It also adds a provision directing "USAC to regularly conduct program integrity reviews to monitor school, library, and service provider compliance with the asset and service inventory rules."

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

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

- Eligible pricing is capped at $90 per unit for hotspot equipment (including activation) and $15 per month for wireless service.

- Recordkeeping and other program safeguards are likely to require extensive administrative efforts on the part of the applicants and significant cooperation between those applicants and their suppliers.

The Further Notice of Proposed Rulemaking ("FNPRM") seeks "further comment on how to ensure the success of schools and libraries' hotspot lending programs, including through continued collaboration by multiple stakeholders. In particular, we seek comment on the most effective means to ensure that limited E-Rate program funds are being used effectively and efficiently, and that Wi-Fi hotspots and services are being used for educational purposes and are not going unused." Any additional rules are likely to add to the administrative burdens associated with the hotspot program. Initial comments on the FNPRM will be due 45 days after the Order is published in the *Federal Register*; reply comments will be due 30 days thereafter.

FCC Releases Draft ESL for FY 2025

The FCC's proposed Eligible Services List for FY 2025 (DA 24-743) has been released for public comment. The only proposed changes for next year are the added references to the newly eligible Wi-Fi hotspots (see article above) under wireless services. An expanded section under Eligibility Explanations reads:

> Wireless services and wireless Internet access – In accordance with the Wi-Fi Hotspot Report and Order (FCC 24-76), the off-campus use of Wi-Fi hotspots and mobile wireless Internet services is eligible for E-Rate support. Wi-Fi hotspots that are portable and a single device (i.e., not a set of linked devices) are eligible as Network Equipment as indicated in Note (1) under Category One.

> As clarified in the Wi-Fi on School Buses Declaratory Ruling (FCC 23-84), the off-campus use of wireless service and the equipment needed to make this wireless service for school buses functional (e.g., antennas, routers, modems) is eligible for E-Rate support.

> Outside of these delineated exceptions, in general, off-campus use of E-Rate-funded services even if used for an educational purpose, is ineligible for support, and must be cost-allocated out of any funding request.

> In order for data plans and air cards for mobile devices for use on-campus (e.g., a bookmobile in a state where it is eligible for support as a library) to be eligible, the school or library seeking support must demonstrate that the individual data plans are the most cost-effective option for providing internal broadband access for mobile devices at schools and libraries. Applicants should compare the cost of data plans or air cards for mobile devices to the total cost of all components necessary to deliver connectivity to the end user device, including the cost of data transmission and/or Internet access to the school or library. Seeking support for data plans or air cards for mobile devices for use in a school or library with an existing broadband connection and WLAN implicates the E-Rate program's prohibition on requests for duplicative services.

Sidebar: For many years, the FCC has received — and rejected — numerous comments to its draft ESLs strongly urging the FCC to make cybersecurity equipment and services eligible. With the FCC having now initiated a separate Cybersecurity Pilot Program (see our most recent newsletters of June 17 and July 29), it will likely reject similar requests for FY 2025. On the other hand, we could argue — and would encourage others to do as well — that having acknowledged the importance of cybersecurity, the FCC should at least make advanced firewalls E-rate eligible now without awaiting results of the Pilot three years out.

Public comments on the draft ESL for FY 2025 are due by August 30th; reply comments are due September 16th.

Updates and Reminders

Upcoming Dates:

August 6	USAC webinar providing an overview of the Cybersecurity Pilot Program (registration).
August 9	Form 486 deadline for FY 2023 Wave 51. More generally, the Form 486 deadline is 120 days from the FCDL date, or the service start date (typically July 1st), whichever is later. Upcoming Form 486 deadlines are:

Wave 52	08/16/2024
Wave 53	08/23/2024

The first Form 486 deadline for FY 2024 for applicants funded on or before July 1st will be October 29th.

August 13	USAC webinar on cybersecurity for E-rate and EPC beginners (registration).
August 15	USAC webinar on Wi-Fi hotspot eligibility (registration).
August 20	USAC webinar to review the information to be required in the Cybersecurity Pilot's initial application, the Form 484 Part One (registration).
August 22	Introductory USAC webinar for service providers new to the E-rate program (registration).
August 27	USAC webinar with an overview of the Open Data system (registration).
August 29	USAC Open Data training on creating reports and visualization (registration).
August 29	Invoice deadline for ECF Window 3 applications.[2]

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[2] 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).

August 30   Due date for public comments on the FCC's proposed Eligible Services List ("ESL") for FY 2025 (DA 24-743). Reply comments are due September 16th.

August 30   Our estimate of Form 470 availability for Funding Year 2025 (see our newsletter of July 15 and USAC E-Rate News Brief summarized below).

FCC Streamlined Decisions:

The FCC issued another set of "streamlined," precedent-based appeals and waivers 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/or 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 July's streamlined decisions (DA 24-704), 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 Review allowing the applicant to remove ineligible items that had triggered a denial.
    b. One Request for Review and/or Waiver remanded to USAC to reconsider the eligibility of an entity.
    c. One Request for Review involving the eligibility of taxes and USF fees.
    d. One Request for Review granting additional time to respond to USAC inquiries.
    e. Five Petitions for Reconsideration and one Request for Waiver involving applications filed less than 30 days late due to unexpected illnesses or other circumstances beyond the applicant's control.
    f. One Request for Waiver filed over 30 days late . . .
    g. Seven Requests for Waiver for applications filed within 14 days of the close of the window.
    h. Four Requests for Waiver involving ministerial and/or clerical errors on applications, Form 486s, or invoices.
    i. One Request for Waiver granting a late-filed service substitution based on a "reasonable explanation" for missing the deadline.
    j. One Request for Waiver extending the invoice deadline for an applicant that had been awaiting a post-commitment request.
    k. One Request for Waiver of a special construction service delivery deadline.
3. E-Rate Denied:
    a. One Request for Review on cost-effectiveness grounds involving "routers priced two or three times greater than the prices available from commercial vendors."
    b. Ten Requests for Waiver for late-filed Form 471 applications.

c. One Request for Waiver for a late-filed invoice or invoice deadline extension request.

USAC Emergency Connectivity Fund Program Newsletter Dated July 30

USAC's ECF Program Newsletter dated July 30, 2024, includes a reminder of the August 29th invoice deadline for Window 3 equipment and services. More importantly, for some applicants, the newsletter includes a series of FAQs that may affect future invoicing as a result of the Congressional funding recission act. The following is an abbreviated summary of the most important FAQs:

Q: What does the language in the Congressional funding recission bill mean for the ECF program?
Short answer: See USAC's ECF newsletter for June.

Q: What impacts does rescission of unobligated funding have on ECF applicants and service providers?
Short answer: The FCC cannot make new commitments in the course of administering the ECF program. Specifically, post-commitment requests with currently prohibited changes cannot be processed at this time.

Q: Will I need to return ECF disbursements I have already received?
Short answer: No.

Q: If I already have a funding commitment, can I continue to submit invoices?
Short answer: Yes.

Q: Are there any pending applications that will be affected?
Short answer: No.

Q: What happens if I have an appeal or waiver request?
Short answer: These may still be filed but the FCC cannot currently make new commitments.

Q: Do any of the deadlines associated with the sunset of the ECF program change?
Short answer: No.

July's ECF newsletter also contains articles on:

- Canceling or reducing ECF commitments.
- Returning funds.
- Inappropriate solicitations by suppliers to use excess ECF commitments.
- Reimbursement reminders.
- ECF program compliance.