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## Funding Status – FY 2020

Wave 33 for FY 2020 was released on Thursday, December 10<sup>th</sup> for a total of \$23.1 million including \$1.35 million for three North Carolina applicants. Cumulative commitments are \$2.00 billion including \$67.2 million for North Carolina. Nationwide, USAC has now funded 94% of the FY 2020 applications representing 71% of the requested funding.

## FCC Provides Relief on RFCDL Invoice Deadlines

The FCC issued an Order ([FCC 20-178](#)) last week giving applicants up to 120 days to submit invoices after the receipt of a Revised Funding Commitment Decision Letter (“RFCDL”). This was a long-awaited, common sense decision that solves a major invoicing problem for certain applicants and service providers. Ever since the FCC adopted strict invoice deadline rules in 2014 as a part of its First E-rate Modernization Order ([FCC 14-99](#)), invoices have had to be filed: (a) within 120 days of the last date to receive service or within 120 days of receipt of the Form 486 Notification Letter (whichever was later); or (b), within an additional 120 days of a properly filed invoice deadline request. Unfortunately, funding requests subject to post-commitment changes as a result of SPIN changes, services substitutions, and appeals often resulted in the receipt of RFCDLs dated after the last day to invoice. Rather than automatically extending invoice deadlines based on the RFCDL dates, USAC was forced to reject “late” filed invoices. At that point the only recourse was to file FCC invoice deadline waiver requests. Silly!

Last week’s revised invoicing Order fixes that problem. Henceforth, applicants and service providers will have 120 days after the receipt of an RFCDL, or the successful appeal of a previously denied or reduced funding request, to file the associated invoices. That should solve most RFCDL-related invoicing problems going forward.

Retroactively, the Order deals with outstanding invoice deadline issues by providing the following recourse:

- Applicants and service providers who had been unable to file invoices as a result of late-received RFCDLs and had filed a timely FCC waiver request (regardless of whether or not

they had received a one-time, 120-day invoice deadline extension) will receive the same 120-day window to file their invoices.

- Applicants and service providers affected by similar late-RFCDL invoice problems and who had not previously filed an FCC waiver are given a one-time opportunity to file an FCC waiver. Such waivers must be filed within the next 60 days (following publication of the Order in the *Federal Register*) and must show good cause as to why these waivers were not initially filed in a timely manner.

The FCC’s Order includes a reminder that the rule change applies only to post-commitment requests or appeal decisions that result in an RFCDL. “Therefore, applicants or service providers appealing partially approved funding requests should submit invoices for the partial funding before the original invoice deadline expires because USAC will not provide additional time to invoice if the appeal is denied.”

## E-Rate Updates and Reminders

### *Upcoming E-Rate Dates:*

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|-------------|---|
| December 16 | USAC <a href="#">webinar</a> on the E-rate invoicing process (2:00 p.m. EST).   |
| December 18 | Form 486 deadline for FY 2020 covering funding committed in Wave 16. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (typically July 1 <sup>st</sup> ), whichever is later. The upcoming Form 486 deadlines this year are:<br>Wave 17                      12/26/2020<br>Wave 18                      12/30/2020 |

### *Senate Confirms New FCC Commissioner:*

Last week, the U.S. Senate confirmed the appointment of Nathan Simington as a Republican FCC Commissioner to replace Michael O’Rielly whose term expires at the end of this month. With the resignation of Chairman Ajit Pai set to become effective on the January 20<sup>th</sup> Inauguration Day, the Commission will, for a time, be comprised of two Republican Commissioners, Simington and Brendan Carr, and two Democratic Commissioners, Jessica Rosenworcel and Geoffrey Starks. Post-inauguration, we expect President Biden to name, at least temporarily, an existing Commissioner (probably Jessica Rosenworcel) as Acting Chair and subsequently to nominate a third Democratic Commissioner.

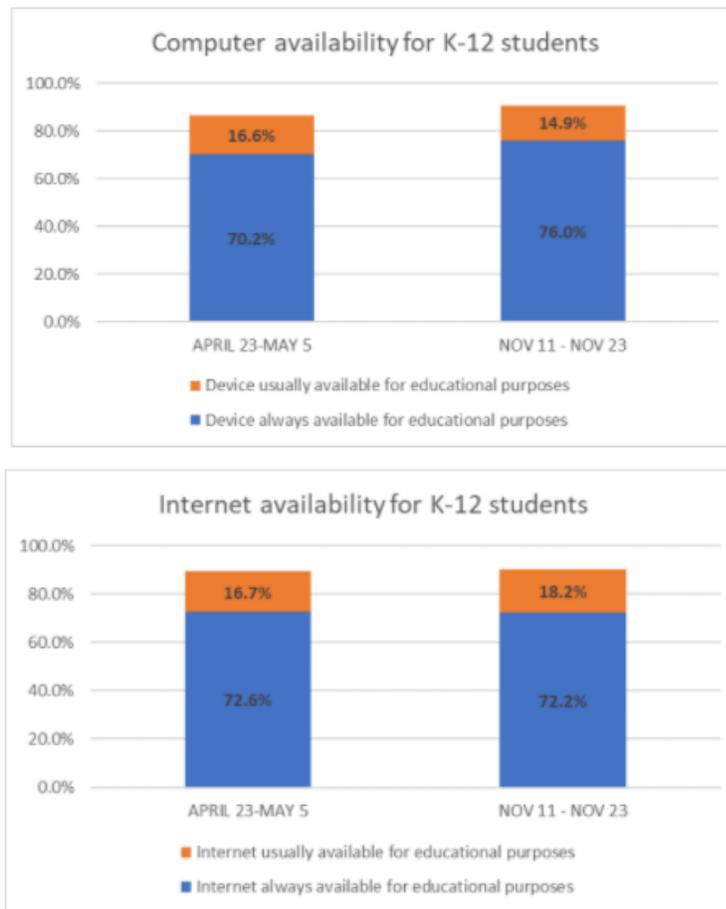
To the extent that the FCC restructuring increases Jessica Rosenworcel’s influence, the greater the likelihood of E-rate support, at least to some degree, for remote learning. Commissioner Rosenworcel has long been a supporter of using E-rate to address the “Homework Gap” — a term often attributed to her. In a concurring statement to last week’s FCC E-rate Order, discussed above, Commissioner Rosenworcel reinforced her position as follows.

“There are nearly 17 million students who do not have the internet access they need for school today. When their schools are shuttered and they are told to go to class online, these

students have no way to get there. They are locked out of the virtual classroom. Instead of fixing this Homework Gap and helping every child get the connection they need for school, this agency has turned the other way. We should be using E-Rate to meet this moment so that no child is left offline.”

*New Study on Remote Learning Access:*

A summary on [Digital Tools & Learning](#) by the Benton Institute, based on data collected by the U.S. Census Bureau, shows only modest increases in the availability of computers and home internet access for K-12 students over the course of this year’s pandemic. The two key charts in the Benton summary are shown below.



Source: Benton Institute for Broadband & Society

As Benton concludes, “the limited progress on home internet access for students since the start of the pandemic suggests a need for more action.” In line with the position of Commissioner Rosenworcel cited above, Benton acknowledges that “Some have advocated for using the Federal Communications Commission’s E-Rate program to improve home internet access, arguing that the program’s objective of using the internet to further learning applies to home internet service when schools are closed.”

### *Update on FCC National Security Protections:*

A year ago, as discussed in our [newsletter of December 2, 2019](#), the FCC adopted an Order ([FCC 19-121](#)) prohibiting the use of USF funds (including E-rate) to purchase equipment and services from companies — specifically Huawei and ZTE — deemed to be threats to national security. Last week, in further support of that Order, the FCC denied Huawei’s request for review ([FCC 20-179](#)) of its designation as a “covered company,” and issued an Order ([FCC 20-176](#)) to establish a program to fund the telecommunications carriers’ costs of replacing insecure equipment and services. Although school and library applicants are now barred from using E-rate funds to purchase equipment and services directly or indirectly provided by the covered companies, they are not required to replace any previously acquired equipment from those companies. E-rate applicants, however, should seek confirmation that their carriers are not providing services incorporating prohibited equipment. The new funding and replacement Order should help carriers abide by these regulations.

### **USAC News Brief Dated December 11 – USAC Fall Training FAQ Additions**

[USAC’s Schools and Libraries News Brief of December 11, 2020](#), provides two additional FAQs and one corrected FAQ to the series of fall training FAQs that have appeared in the preceding three News Briefs. To review the earlier FAQs, use the following links:

- [November 13<sup>th</sup>](#) covers the 2020 Training Kickoff Event, an E-rate Program Overview, and an EPC Demonstration.
- [November 20<sup>th</sup>](#) covers the E-Rate Pre-Commitment Process, Category Two Budgets, and the Category Two Budget Tool.
- [December 4<sup>th</sup>](#) (there was no News Brief on November 27<sup>th</sup>) covers the E-rate Post-Commitment Process, the EPC Administrative Window, and Eligible Services.

Last week’s News Brief:

- Provides the following FAQ on the E-rate Pre-Commitment Process — What factors do I need to consider if I am signing an addendum to my original contract with my service provider?
- Adds the following FAQ on Eligible Services — My service provider wants to finish installation of the equipment necessary to provide my Category One service and turn on the recurring service on May 1 preceding the funding year for testing purposes. Is this allowable?

Note: Most importantly, USAC reminds applicants that “If the funding request is for leased lit fiber, leased dark fiber, self-provisioned fiber, or an equivalent technology for which special construction is requested, USAC will not pay discounts on the special construction charges if the recurring service is turned on before July 1 of the funding year. Commission rules provide that the actual start date for a recurring service that includes construction services must begin on or after the start date of the funding year (July 1).” [*Emphasis added*]

- Corrects one bullet point in the EPC Administrative Window FAQ — What do I enter in the Community Eligibility Provision (“CEP”) Base Year field?

The News Brief also: (a) references the amended E-rate invoicing rules discussed above; (b) indicates that the 2021 Payment Quality Assurance (“PQA”) assessment has begun; and (c), notes two recent navigation modifications made to increase the usability of the USAC website.

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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.*

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