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Funding Status – FY 2020 and FY 2021

FY 2020:

Wave 35 for FY 2020 was released on Thursday, December 31st for a total of \$12.3 million including \$547 thousand for two North Carolina applicants. Cumulative commitments are \$2.08 billion including \$70.5 million for North Carolina. Nationwide, USAC has now funded 95% of the FY 2020 applications representing 74% of the requested funding.

FY 2021:

The FY 2021 Form 471 application window will open at noon on Friday, January 15th, and will close on Thursday, March 25th, at 11:59 p.m. EDT. Two other key dates associated with this window are:

- The FY 2021 administrative window, allowing applicants to update their EPC entity profiles, will close on Wednesday, January 13th, at 11:59 p.m. EDT. Thereafter, entity profiles will be locked for the duration of the application window.
- Thursday, February 25th, will be the last possible day to file a Form 470 so as to allow the minimum 28-day posting period required before applicants can close their competitive bidding processes, evaluate bids, sign contracts, and file their Form 471 applications. Whenever possible, avoid waiting until the last day to file Form 470s.

For additional information on the FY 2021 application window, see the [USAC Special Edition Schools and Libraries News Brief dated December 22, 2020](#).

2020 Review – 2021 Preview

At the New Year, it is worthwhile to look back on the past year and to plan for the new one. Here’s our annual E-rate review of 2020 and a preview of 2021. Additional details on 2020 developments can be found in our [E-Rate Weekly News Archive](#).

Key E-Rate Milestones in 2020:

Normally we'd start the year's review in January, but it is important to note that a key event for 2020 actually began in December 2019 when the FCC released the new Category 2 budget rules ([FCC 19-117](#)) resetting all budgets as of FY 2021 on a districtwide or systemwide basis (see our [newsletter of December 9th](#)). The FCC also extended the existing budgeting process through FY 2020 as a transitional step and added an additional 20% to all budgets.

Back to our regular "Hindsight 2020" review:

- January
 - The FCC permanently eliminated a requirement to amortize upfront network installation/special construction charges of \$500,000 or more for Category 1 services. The requirement had initially been put in place in 2000 but had been temporarily suspended as of FY 2015 (see our [newsletter of February 3rd](#)).
- February
 - The first reports were received of a coronavirus outbreak in China. Initially the only E-rate implication pointed to potentially longer delivery times for network gear and components coming from China. How wonderful it would have been if that was the only consequence.
- March
 - The pandemic rapidly became more serious leading to a rash of school closings. FCC Commissioners Rosenworcel and Starks proposed emergency steps to support "telework, telehealth, and tele-education." Calls to extend E-rate eligibility in support of remote learning were heard throughout the year to no avail.
 - The FCC did take a number of significant steps to address the COVID crisis. Specifically:
 - The Form 471 application window was extended six weeks into April.
 - FCC Chairman Pai initiated a "Keep Americans Connected Pledge" asking broadband providers to avoid service terminations and late fees.
 - The FCC temporarily waived E-rate gift rules, initially through September 30th, subsequently through December 31st, then through June 30th of 2021.
 - The FCC confirmed that its community use provision of E-rate-supported WiFi networks would be permitted during school or library closures ([DA 20-234](#)).
 - USAC was directed to provide applicants with additional time to respond to PIA inquiries.
- April
 - In further response to the pandemic, the FCC extended a series of other deadlines for service delivery dates, invoices, Form 486s, appeals and waivers ([DA 20-364](#)).

- A [joint announcement](#) by the FCC and the U.S. Department of Education promoted the use of [CARES Act](#) funding to support remote learning. The FCC subsequently announced a similar [collaboration](#) with the Institute of Museum and Library Services (“IMLS”) to use library CARES funding to increase community access.
- May
- USAC’s preliminary estimate of demand for FY 2020 was \$2.01 billion, an increase of less than 0.5% over FY 2019.
 - The first funding wave for FY 2020 was released on May 9th, less than two weeks after the close of the application window.
- June
- As of the end of June, prior to the start of FY 2020, USAC had released ten funding waves with FCDLs issued on just over 73% of applications received for FY 2020 totaling approximately \$978 million.
 - The FCC declined to make changes to clarify the Category 1 drop-down menus in the FY 2021 Form 470. Applicants who have not yet filed their Form 470s for next year should note the following important points:
 - The appropriate drop-down option for an applicant seeking bids for internet access delivered to its premises (i.e., a service that includes data transmission service) is either Leased Lit Fiber (with or without Internet Access) or Internet Access and Transport Bundled (Non-Fiber).
 - The appropriate drop-down option for an applicant seeking bids on bulk internet, which the applicant is responsible for transporting to its premises, is Internet Access: ISP Service Only (No Transport Circuit Included).
 - The USF contribution factor for 3Q20 reached a new high of 26.5%. Unfortunately, it would rise still higher later in the year.
- July
- USAC implemented multifactor authentication (“MFA”) for its new “One Portal” to access EPC and the legacy BEAR system.
- August
- In recognition of the pandemic’s effect on E-rate applicants, the FCC began to routinely grant late-filed Form 471 applications submitted less than 60 after the close of the April 29th window.
 - USAC introduced a new [Category 2 Budget Tool](#) for the next five-year budget cycle FY 2021 – FY 2025.
- September
- The USF contribution factor rose again to 27.1% for 4Q20.
 - The GAO released a [report](#) calling for the FCC and USAC to “comprehensively assess fraud risks to the E-rate program.”
 - The FCC [announced](#) a second application window for FY 2020 to permit schools to apply for additional bandwidth to support the increased

demand generated by large numbers of off-campus learners remotely accessing the schools' on-campus internet facilities.

- October
- USAC implemented a streamlined processing system for BEARs with multiple FRN line items so that they would be reviewed and funded on a line-by-line basis.
 - The FCC [updated](#) its guidance on Category 2 budgets to cover independently-run charter schools and independent schools or districts with part-time students.
 - Departing from its traditional practice of holding regional, in-person, fall training workshops, USAC substituted a comprehensive series of [webinars](#) (available online).
- November
- Connected Nation, which assumed the responsibility for maintaining the E-rate broadband funding database from EducationSuperHighway, released the first version of its free [Connect K-12](#) tool.
 - Joan Wade, Executive Director of the Association of Educational Service Agencies, was reappointed to the USAC Board.
- December
- With the pending change of the Administration, FCC Chairman Ajit Pai announced his intention to resign as of January 20, 2021. The Senate also confirmed the nomination of Nathan Simington to assume the Commission seat previously held by Michael O’Rielly. This will temporarily leave the FCC with four Commissioners — two Republicans, two Democrats — pending the nomination of a fifth Commissioner by incoming President Biden.
 - The FCC issued a long-awaited Order ([FCC 20-178](#)) giving applicants up to 120 days to submit invoices after the receipt of a Revised Funding Commitment Decision Letter (“RFCDL”).
 - The FCC released the Eligible Services List ([DA 20-1418](#)) for FY 2021, virtually unchanged from FY 2020. The FCC declined requests to include support for remote learning and additional cybersecurity protection.
 - The USF contribution factor broke the 30% level jumping to 31.8% for 1Q21.
 - New COVID-19 relief legislation, while not addressing E-rate support for remote learning, did include an additional \$54 billion for Elementary and Secondary School Emergency Relief (“ESSER”) and, more specifically, \$3.2 billion for an Emergency Broadband Benefit (“EBB”) program that can be used to subsidize devices and home internet access for remote learners (see our [newsletter of December 28th](#)).

Anticipated E-Rate Developments in 2021:

Despite a smoothly running E-rate program and efforts by the FCC and USAC to ease the pandemic's impact on schools and libraries, 2020 was an exceedingly difficult year. Although vaccine distribution has begun, the early months of 2021 may be the worst yet.

At this point, USAC is on track for opening the Form 471 application window on January 15th and closing it on March 25th. To be safe, we encourage applicants to complete their competitive bidding processes, sign their contracts, and file their FY 2021 applications as early in the year as possible.

The most significant E-rate developments for 2021 are likely to depend upon the political restructuring of the FCC, expected to begin after the January 20th inauguration. With the Democrats in charge of the Administration, we would expect the appointment, at least initially on an acting basis, of Jessica Rosenworcel as FCC Chair. Commissioner Rosenworcel is a long-time proponent of using E-rate to support remote learning, specifically to resolve the Homework Gap. Fundamental changes to the E-rate program in this direction, however, may well depend upon the appointment of a third Democratic Commissioner and/or supportive changes in Congress.

One problem that the FCC will hopefully address this year is the ongoing funding of the Universal Service Fund ("USF"). As noted in our 2020 summary above, and in more detail in our [newsletter of December 21st](#), the USF quarterly contribution factor has for the first time spiked above 30%. The FCC has been ducking this growing problem for years. The only solution on the table at the moment is a minority report released in 2019 by three state members of the advisory Federal-State Joint Board on Universal Services recommending the expansion of the contribution base to include a broader class of services, e.g., broadband internet services. Unfortunately, an FCC announcement ([FCC 20-185](#)) last week indicates that three state commissioners on the Joint Board, including two of the three authors of the report, have been replaced (apparently upon "retirement").

Other developments to look for in 2021 include:

- FCC modernization of its suspension and debarment rules as per the Notice of Proposed Rulemaking ([FCC 19-120](#)) (see our [newsletter of December 2, 2019](#)).
- Possible expansion of the list of "covered companies" included in the FCC's order Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs ([FCC 19-121](#)) based on additional threats out of China.
- Reevaluation of the E-rate eligibility of enhanced cybersecurity products and services, particularly as Category 2 (see [SECA's ESL Reply Comments](#)).

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

January 11	Form 486 deadline for FY 2020 covering funding committed in Wave 20. More generally, the Form 486 deadline is 120 days from the FCDL date or
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the service start date (typically July 1st), whichever is later. Upcoming Form 486 deadlines are:

Wave 21	01/15/2021
Wave 22	01/22/2021
Wave 23	01/29/2021

January 13 The administrative window, allowing applicants to update their EPC entity profile, closes at 11:59 p.m. EDT. Thereafter, entity profiles will be locked for the duration of the application window.

January 15 Form 471 application window opens as noon EST. the window is scheduled to close at 11:59 p.m. EDT on March 25, 2021.

FCC Streamlined Decisions:

The FCC issued another set of “streamlined” precedent-based decisions ([DA 20-1531](#)) 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 waiver requests can be found online in the FCC’s [Search for Filings](#) under Docket 02-6.

This set of decisions is notable for granting the first batch of invoice deadline waivers under the recent FCC Order ([FCC 20-178](#)) granting an additional 120-days to file invoices following the late issuance of Revised Funding Commitment Decision Letters (“RFCDLs”).

In December’s streamlined decisions, the FCC:

1. Dismissed:
 - a. Two Requests for Waiver deemed moot where USAC had already taken the actions requested.
2. Granted:
 - a. Five Requests for Review and/or Waiver for ministerial and/or clerical errors involving incorrect pricing.
 - b. One Request for Waiver for a FY 2020 Form 471 application filed less than 60 days (i.e., up to 59 days) late.
 - c. Sixty-three Requests for Waiver to submit invoices in instances for which USAC decisions were issued after the normal invoice deadlines. These actions are in line with the waiver provisions of the FCC 20-178 Order noted above and discussed in more detail in our [newsletter of December 14th](#).

Note: Applicants and service providers wishing to file similar waiver requests must do so within 60 days of the publication of this Order in the *Federal Register*.
3. Denied:
 - a. Ten Requests for Waiver for invoice deadline extensions.
 - b. Four Requests for Waiver of the Form 471 window for applications filed 60 days or more late (including one denied on reconsideration).

- c. Two Requests for Waiver or Review of applications denied for relying on Form 470s that did not seek bids for the type of E-rate services later requested in Form 471s.
- d. One Request for Waiver for an untimely filed appeal or waiver.

FCC-IBM Settlement:

The FCC [announced](#) the [settlement](#) of a long-standing dispute with IBM spanning over fifteen years with respect to alleged violations of E-rate competitive bidding regulations in services provided to the New York City and El Paso school districts. Without admitting guilt, IBM agreed to return \$24.25 million to the Universal Service Fund and to provide training to its employees concerning the Commission’s competitive bidding and eligibility requirements prior to submitting future bids in connection with the E-Rate program.

The IBM settlement is the culmination of an investigation tracing back as far as FY 2002 after the New York City Department of Education (“NYCDOE”) found that an independent technology consultant had “orchestrated...a subcontracting scheme” involving IBM and Verizon. NYCDOE resolved that case itself five years ago by signing an FCC Consent Decree (see [our newsletter of December 28, 2015](#)).

USAC News Brief – None for the New Year’s Week

USAC did not issue a Schools and Libraries Program News Brief on Friday, January 1st.

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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