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Funding Status – FY 2020 and FY 2021

FY 2020:

Wave 49 for FY 2020 was released on Thursday, March 31st, for a total of \$35.1 million, none for North Carolina applicants. Cumulative commitments are \$2.32 billion including \$73.3 million for North Carolina. Nationwide, USAC has now funded 98% of the FY 2020 applications representing 85% of the requested funding.

FY 2021:

The FY 2021 Form 471 application window closed Thursday, March 25th. Last week the FCC announced the [inflation-based E-rate funding cap](#) and [PIA procedures approval](#) for FY 2021, both required to begin issuing funding waves. USAC’s Initial Demand Estimate is the only remaining precondition for the start of funding waves expected in early May.

A second E-rate application window, for the \$7 billion of funding authorized under the Emergency Connectivity Fund (“ECF”) of the American Rescue Plan Act of 2021, is expected to open later this Spring or early Summer (see our newsletters of [March 15](#) and [March 22](#)).

Emergency Broadband Benefit Update

In the Emergency Broadband Benefit (“EBB”) Order ([FCC 21-29](#)), the FCC expressed an expectation that the program and the beneficiary enrollment process would begin “in less than 60 days.” That 60 day mark will be April 26th. In brief, the EBB program will provide discounts of up to \$50/month (\$75/month in Tribal areas) on residential internet service and discounts of up to \$100 on “connected devices” for low-income families (see our newsletters of [March 1st](#) and [March 8th](#)).

Eligible telecommunication carriers (“ETCs”) are automatically eligible to participate; non-ETCs must apply. To be able to offer EBB discounts, however, all internet service providers (“ISPs”), ETCs, and approved non-ETCs, must proactively elect to participate. USAC is currently processing EBB applications and elections. The FCC has just [announced](#) the first list of

participating ISPs. A [list of participating providers](#) to date, sorted by state, is available online and will presumably be updated as additional providers are added. It is interesting to note that well less than half of the participating providers plan to offer device discounts.

It should be stressed that this is not an E-rate program nor will it provide discounts only for families of school-aged children or library patrons. Although EBB internet discounts are available to all low-income families, we believe that schools and libraries can and should take the lead in encouraging participation by their student families and library patrons.

For schools and libraries already providing — and paying — for home internet access their needy students and patrons there are two options.

1. Encourage those families to transition from the schools’ or libraries’ bulk subscription plans to individual family EBB-discounted internet service plans for the duration of the program. To be effective, and without disrupting remote access in the interim, this is likely to require extensive coordination efforts with both the families and the ISPs.
2. Alternatively, but also requiring a coordinated approach, the EBB program does permit (subject to some restrictions) discounts to be applied, on a family-by-family basis, directly to the schools’ or libraries’ bulk subscription services. Although bulk service discounts are permitted under the EBB Order (see Para. 45), there has been no formal guidance issued by either the FCC or USAC. Based on informal guidance we received, we believe that bulk subscription services can be discounted under the following conditions:
 - a. The associated ISPs have elected to participate in EBB (see link to the list of participating providers above);
 - b. The residential-type internet service plans covered by the bulk subscriptions are of a type offered by the ISPs as of December 1, 2020;
 - c. The families being served meet the income eligibility requirements (one measure of which is NSLP (including CEP) eligibility); and
 - d. The families’ “consent” to have their EBB discounts applied to their bulk subscription services (as opposed to using their EBB discounts themselves on their own home service, thus “double dipping”).

For a more complete discussion of coordinating EBB discounts on bulk service plans, see our more detailed [school](#) and [library](#) strategy memoranda.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

April 5 Deadline for filing initial comments on the FCC Emergency Connectivity Fund (“ECF”) (see our newsletter of [March 22](#)). Reply comments are due on April 23rd.

Note: We expect that many comments submitted will address the wisdom of applicant funding caps to fairly allocate limited ECF resources. E-Rate Central’s [initial comments](#) recommend Category 2 budget-like caps as a simple means of recognizing differences in applicant demographics.

- April 9 Form 486 deadline for FY 2020 covering funding committed in Wave 33. 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:
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|---------|------------|
| Wave 34 | 04/16/2021 |
| Wave 35 | 04/22/2021 |
| Wave 36 | 04/30/2021 |
- May 10 Legislative deadline for the FCC to promulgate regulations for E-rate funding under the Emergency Connectivity Fund.

FCC Streamlined Decisions:

The FCC issued another set of “streamlined” precedent-based decisions ([DA 21-364](#)) 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.

In March’s streamlined decisions, the FCC:

1. Granted:
 - a. One Request for Waiver of a late-filed Form 471 due to circumstances beyond the applicant’s control. The circumstances in this case were related to the shootings at Broward County’s Marjorie Stoneman Douglas High School in 2018.
 - b. Two Requests for Review for late-filed Form 486s for which the applicants demonstrated good cause.
 - c. Three Requests for Review and/or Waiver for ministerial and/or clerical errors involving incorrect discount rates.
 - d. One Request for Waiver of the 28-day competitive bidding rule in which no additional bids were received within the final 4 days (including a weekend).
2. Denied in Part:
 - a. One Request for Waiver for funding during the second FY 2020 COVID relief window, denied in part only to the extent that funding was requested above the original commitment amount.
 - b. One Request for Review of a SPIN change denied in part only to the extent that funding was requested above the original commitment amount.
3. Denied:
 - a. One Request Waiver for failure to satisfy the red light rule despite an applicant claim that it was never notified by USAC.
 - b. One Request for Waiver for an invoice deadline extension.
 - c. Four Requests for Waiver for ministerial and/or clerical errors where petitioners had not justified good cause.
 - d. One Request for Review in which the applicant did not demonstrate that it secured “access to all of the resources necessary to effectively use the services purchased.”

- e. One Request for Waiver for relying on a Form 479 that did not seek bids for the types of services later requested.
- f. Four Requests for Waiver for untimely filed appeals or waivers.

USAC News Brief Dated April 2 – National Supply Chain Requirements

[USAC's Schools and Libraries News Brief of April 2, 2021](#) provides additional guidance for service providers and applicants regarding compliance with the FCC's National Security Rules orders. Under these rules — the [Supply Chain First Report and Order](#) of November 2019, and the [Second Report and Order](#) of December 2020 — USF funds (including E-rate) cannot be used to purchase or maintain equipment and services provided by “covered companies” deemed a threat to national security. Eligible telecommunications carriers (“ETCs”) are required to remove and replace any such equipment already installed (see our newsletter of [December 2, 2019](#)). The list of covered companies, initially only Huawei and ZTE, has since been expanded to include three other Chinese companies.

The burden of complying with the FCC's national security rules falls primarily on the ETCs, but E-rate applicants need to be aware of the security issues, primarily if prohibited equipment, or even components, is incorporated in E-rate purchases. Only two of the covered companies, Huawei and ZTE, have U.S. subsidiaries with SPINs, and neither have any history as E-rate service providers. Our analysis of USAC's Open Data files, however, does show \$2-3 million of Huawei equipment incorporated in offerings by other E-rate service providers.

USAC's News Brief notes that service providers who participate in multiple USF programs must file annual certifications for each program. Specifically, for E-rate, service providers must file a Service Provider Annual Certification (Form 493 or “SPAC”) certifying compliance with all E-rate rules. The Form 493 has now been updated to include two new supply chain-related compliance certifications. These new certifications will be required for service providers filing new SPACs for FY 2020 (which most have already done) and all SPACs for FY 2021.

USAC's related guidance for E-rate applicants is as follows:

- FY 2020 applicants: If you requested services or equipment in FY 2020 that contains components, products, or services produced by any of the above-named companies, or any of their parents, affiliates and subsidiaries, you cannot invoice for this equipment or services. Instead, you should immediately request a service substitution prior to invoicing in order to ensure complete program compliance.
- FY 2021 applicants: As you proceed with competitive bidding and submitting funding requests forms, please ensure you are not requesting funding for services or equipment from any of the above-named companies, or any of their parents, affiliates, and subsidiaries. If you have already submitted your funding requests, and it includes services or equipment from these companies or any of their parents, affiliates and subsidiaries, please submit a service substitution via a RAL request in EPC.

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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