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PROGRAM SUMMARY

Program Name:	<i>In the Matter of Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks</i>
Agency:	Federal Communications Commission (FCC)
Docket or Proceeding:	WC Docket No. 18-141
Date:	July 26, 2019 (adopted); August 2, 2019 (released)

ABSTRACT

In response to a petition from incumbent local exchange carriers (incumbent LECs), the FCC determined that the public interest is no longer served by requiring incumbent LECs to maintain legacy telephone technology known as time division multiplexing (TDM) over traditional copper wires. According to the FCC, these legacy technologies “have become a vice, trapping incumbent LECs into preserving outdated technologies and services at the cost of a slower transition to next-generation networks and services that benefit American consumers and businesses.”

BACKGROUND

As part of the [American Rescue Plan Act of 2021](#) (Act), signed into law on March 11, 2021, Congress appropriated \$7.171 billion to the FCC to promulgate rules providing for the distribution of funding from the ECF to eligible schools and libraries for the purchase of eligible equipment and advanced telecommunications and information services for use by students, school staff, and library patrons at locations other than a school or library.

On May 10, 2021, pursuant to section 7402 of the Act, the FCC adopted a [Report and Order](#) establishing rules for the ECF program. The FCC and USAC opened an initial 45-day application filing window from June 29, 2021, to August 13, 2021 and a second 15-day application filing window from September 28, 2021, to October 13, 2021. During these application filing windows, applicants could request funding for eligible equipment and services that are received or delivered between July 1, 2021, and June 30, 2022 (“service delivery date”).

Section 54.1711(d) provides that “invoices must be submitted to [USAC] within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of previously denied or reduced funding; or service delivery date, whichever is later.” Accordingly, in the Order, the FCC

On July 22, 2021, the Wireline Competition Bureau issued a *Public Notice* establishing June 30, 2022, as the service delivery date for equipment and other non-recurring services that have not been received at the time the funding request is made. Accordingly, applicants were permitted to use June 30, 2022, as the “service end date” when submitting a funding request

The Bureau subsequently received a petition for waiver contending that the *Public Notice* resulted in applicant confusion around the appropriate service delivery. To avoid further confusion and to minimize administrative burdens, the Bureau granted a limited waiver of the ECF program invoice filing deadline. The Bureau modified section 54.1711 to adopt June 30, 2022, as the service delivery date for funding requests for equipment, other non-recurring services, and recurring services submitted during the two application filings windows.¹

On January 28, 2022, a group of ECF program stakeholders, led by the Schools, Health & Libraries Broadband Coalition (SHLB), filed a petition for waiver requesting a one-year extension of the June 30, 2022, service delivery date. In its petition, SHLB maintained that the June 30, 2022, service delivery date is “unworkable.” Statements submitted in support of the waiver request included:

- that many applicants are waiting to receive a funding commitment decision letter before ordering eligible equipment and services; decisions received later in the funding period place these applicants at risk of not being able to use all their committed ECF support by June 30, 2022.
- that applicants with recently approved or pending funding requests will have less time to use the full amount of committed funding for recurring services, or may not have enough time to order, receive, and distribute eligible equipment by June 30, 2022. See SHLB comments (explaining that some service providers require a minimum six-month contract for services, leaving applicants who do not receive a commitment by January 1, 2022, unable to enter into a contract for ECF supported services with the current service delivery deadline).
- that procurement logistics and review processes are impeding efforts to use ECF funding by June 30, 2022. (City of San Jose)
- that the timing of post-commitment change request reviews, supply chain delays, price increases, and COVID-related staffing shortages are resulting in applicant not being able to fully use their ECF supported equipment or services because of the June 30, 2022, service delivery date.

To ensure first and second window applicants can use all their ECF support, the Bureau found that good cause existed to waive and extend the service delivery date to June 30, 2023.

¹ Section 54.1711(d) provides that “invoices must be submitted to the Administrator within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of previously denied or reduced funding; or service delivery date, whichever is later.”

PROGRAM REQUIREMENTS

ELIGIBLE RECIPIENTS

In an [Order](#) released on May 11, 2021, the FCC adopted rules providing that all schools and libraries that are eligible for support under the E-Rate program are also eligible for support under the ECF program. For purposes of the ECF program, the FCC adopted the same definitions of “elementary school,” “secondary school,” “library,” and “library consortium” as are used in the E-Rate rules.

Eligible schools and libraries do not need to be current E-Rate participants. However, the FCC stated that eligible entities – particularly those that have not applied for E-Rate support – should be prepared to demonstrate eligibility as a school or library under the program rules.

Pursuant to section 254(h)(4), the following entities are not eligible to receive support from the ECF: (1) for-profit schools and libraries; (2) schools and libraries with endowments exceeding \$50,000,000; (3) libraries whose budgets are not separate from any schools; and (4) a library or library consortium that is not eligible for assistance from a state library administrative agency under the Library Services and Technology Act.

ELIGIBLE EQUIPMENT

Section 7402 provides that “the Commission shall reimburse 100 percent of the reasonable costs associated with “eligible equipment” and “advanced telecommunications and information services.”

Section 7402(d)(6) defines “eligible equipment” as: (1) Wi-Fi hotspots; (2) modems; (3) routers; (4) devices that combine a modem and router; and (5) connected devices.

“Connected device” is defined as “a laptop computer, tablet computer, or similar end-user device that is capable of connecting to advanced telecommunications and information services.” The FCC has stated that the connected device must be Wi-Fi enabled and must be able to support video conferencing platforms and other software necessary to ensure full participation in remote learning. In addition, connected devices must be accessible to and usable by individuals with disabilities. “Connected device” does not include desktop computers or mobile phones, including smart phones.

In the *Order*, the FCC specified air-cards used to connect end-user devices to the Internet through cellular data services are wireless modems, and therefore are eligible for support.

ELIGIBLE SERVICES

Services eligible for ECF support include “commercially available fixed or mobile broadband Internet access services.” Under a limited exception, eligible entities that are unable to provide students, school staff, or library patrons commercially available fixed or wireless broadband Internet access services, eligible services may include the reasonable costs of construction of new networks, including self-provisioned networks or the reasonable costs of customer premises equipment to receive datacasting services.

A manufacturer’s multi-year warranty for a period of up to three years that is provided as an integral part of an eligible component, without a separately identifiable cost, may be included in the cost of the component; however, unbundled warranties are ineligible.

In the Order, the FCC mentioned the following services as not being eligible for support: dark fiber; network construction; antennas, cell towers; CBRS; TVWS; drone-powered Internet; cybersecurity tools; learning management systems; private network services; online learning services that support online learning platforms; video conferencing equipment; and standalone microphones

ELIGIBLE USES

Eligible equipment and services purchased with ECF support must be used primarily for educational purposes, which in the case of schools is defined as “activities that are integral, immediate, and proximate to the education of students,” and in the case of libraries is defined as activities that are “integral, immediate, and proximate to the provision of library services to library patrons.”² The Commission has established a presumption that activities that occur in a school or library or on a school campus or library property serve an educational purpose.

ELIGIBLE LOCATIONS

Eligible schools and libraries can request and receive support at locations other than the school or library. Service locations may include homes, community centers, churches, school buses, bookmobiles, and any other off-campus locations where students, school staff, and library patrons are engaged in remote learning activities. Eligible schools and libraries cannot request and receive support from the ECF for the purchase of eligible equipment and services for use solely at the school or library during the COVID-19 emergency period. However, under certain conditions, eligible equipment (as defined in 54.1700) and eligible mobile services purchases for off-campus may be used at the school or library.

ECF support is limited to no more than one fixed broadband Internet access connection per location; one connected device; and one Wi-Fi hotspot device per student, school staff member, or library patron.

SUPPORT AMOUNTS

The FCC will reimburse 100% of the costs associated with the eligible equipment and services, except that any reimbursement of the costs associated with any eligible equipment or service may not exceed a reasonable support amount.

The program will reimburse eligible schools and libraries a maximum of \$400 for each connected device (i.e., laptop or tablet) and a maximum of \$250 for Wi-Fi hotspots. Schools and libraries may buy more expensive laptops, tablets, or Wi-Fi-hotspots, but they can only be reimbursed up to \$400/\$250. The Wireline Competition Bureau has delegated authority to provide guidance to USAC to assess the reasonableness of requests for other eligible equipment or services.

OTHER COVERED COSTS

The FCC determined that the ECF program should cover reasonable costs of the enumerated equipment, connected devices, and services, including installation, activation, and initial configuration costs, taxes, and fees.

² See 47 C.F.R. § 54.500.

APPLICATION PROCESS

The initial order implementing the ECF program directed USAC to open a 45-day application filing window from June 29, 2021, to August 13, 2021, and a 15-day filing window from September 28, 2021, to October 13, 2021. During these funding windows, applicants could request funding for eligible equipment and services that are received or delivered between July 1, 2021, and June 30, 2022,

On February 22, 2022, the Wireline Competition Bureau released an [Order](#) extending the service delivery date to June 30, 2023, for all applicants that applied for ECF support for equipment, other non-recurring services, and recurring services during the first and second application filing windows.

In the order, the FCC clarified that, consistent with the E-Rate program, schools and libraries may contract with any service provider or vendor willing to comply with the ECF program rules, not just eligible telecommunications carriers.

REIMBURSEMENT REQUESTS

An eligible school, library or consortium seeking to receive ECF support must submit FCC Form 471. All information submitted as part of an FCC Form 471 application will be treated as public and non-confidential.

ECF program reimbursement is made directly to an eligible school, library, consortium, or service provider upon the submission and approval of a completed FCC Form 472 (Billed Entity Applicant Reimbursement Form) or a completed FCC Form 474 (Service Provider Invoice).

Along with the submission of a completed FCC Form 472 or Form 474, an eligible school or library must submit invoices detailing the items purchased or ordered to USAC at the time the Form 472 or 474 is submitted. Applicants that seek payment from the ECF prior to paying their service provider must also provide verification of payment to the service provider within 30 days of receipt of funds.

Invoices must be submitted to USAC within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of previously denied or reduced funding; or service delivery date (whichever is later).

RULES & RESTRICTIONS

Duplicate Support. The ECF will not reimburse for equipment or services that are paid for by another federal pandemic relief program (such as the Emergency Broadband Benefit Program). However, a student could receive broadband access service through the EBB and a connected device through the ECF.

Gift Restrictions. Participants may not directly or indirectly solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of value from a service provider participating in or seeking to participate in the ECF program. Except that any service provider may offer and provide, and any applicant may solicit and accept, broadband connections, devices, networking equipment, or other things of value directly related to addressing remote learning needs of students, school staff, and library patrons due to the COVID-19 pandemic through June 30, 2022.

ORDERS AND DECISIONS

Date	Type	Description	URL
05/11/2021	Report and Order	Order adopting rules.	View

RESOURCES

Description	URL
FCC page regarding the ECF	View
Rules governing the ECF	View
USAC page regarding FCC Form 474	View
Order extending service delivery date to June 30, 2023	View
American Rescue Plan Act	View