

OVERVIEW OF THE NEW EMERGENCY CONNECTIVITY FUND FOR REMOTE LEARNING SERVICES



MAY 19, 2021

Background

On May 10, 2021, the FCC unanimously adopted final rules in a Report and Order to implement the \$7.17 billion Emergency Connectivity Fund Program (“ECF Program” or “Fund”). The ECF Program is a fund that enables “schools and libraries to purchase laptop and tablet computers, Wi-Fi hotspots, and broadband connectivity for students, school staff, and library patrons in need during the COVID-19 pandemic.” The ECF provides significant, pandemic-related expenditures addressing the digital divide, funded outside of the existing federal Universal Service Fund programs. The primary purpose of the ECF is to fund services and equipment used for remote learning and remote library services necessitated by the pandemic shut-downs. The E-Rate program, which funds on-campus broadband services (including in-building Wi-Fi), does not fund off-campus services at this time.

With these rules, the FCC sets in motion a process for schools and libraries to receive funding for 100% of purchases to provide remote learning and remote library services during the pandemic. The FCC will fund claims for the upcoming school year (July 1, 2021 to June 30, 2022) first, with a window opening in June 2020. If funds remain available, the FCC will then allow a funding window to reimburse applicants for purchases made between March 1, 2020 and June 30, 2021.

The Universal Service Administrative Company (“USAC”) was appointed by the FCC as the permanent Administrator of the ECF, responsible for reviewing applications for funding, recommending funding commitments, issuing funding commitment decision letters, reviewing invoices and recommending payment of funds, as well as other administration-related duties.

ECF Program Funding Details

- **Cap and Requests**
 - Total ECF Cap Amount: \$7,171,000,000
 - Amount available for FCC Inspector General oversight: \$1,000,000
 - Amount to be used by FCC and Administrator: Approximately \$143,420,000 (not more than 2%)
- **Eligible Equipment**
 - Connected Devices: Up to \$400 per device
 - Wi-Fi hotspots: Up to \$250
 - USAC will evaluate the reasonableness of the amounts for other eligible equipment (modems, routers, and devices that combine modems and routers).

- **Eligible Services**
 - USAC will review applications for commercially available advanced telecom and information services and identify the applications with outlying costs and determine the reasonableness of such costs.
 - The FCC expects that most of the applications for broadband internet access service (BIAS) services will be for services purchased under bulk purchase agreements and for services to generally be in the range between \$10 - \$25/month.
 - Not all schools and libraries will be making bulk purchasing agreements. In assessing the reasonableness of costs for BIAS services particularly in rural locations, USAC and the Bureau should make use of the reasonable comparability benchmarks established for the High Cost Universal Service Support Program.

Eligibility: Recipients, Service Providers, Equipment, Uses, and Services

- **Eligible Recipients**
 - Schools, libraries, and consortia that are eligible for support under E-Rate are also eligible to request and receive support through ECF. Eligible schools and libraries do not need to be current E-Rate participants. Schools that operate as for-profit businesses or have endowments that exceed \$50,000,000 are not eligible for ECF support.
- **Eligible Service Providers**
 - Participants may contract with any service provider/vendor willing to comply with the Fund's rules, not just ETCs. Service Providers must register with USAC but they do not require prior approval from the Commission, a state commission or USAC, as is required for other programs.
- **Eligible Equipment**
 - Wi-Fi hotspots, modems (including air-cards), routers, devices that combine a modem and router, and connected devices. Connected devices are defined as laptop and tablet computers, but **excludes** desktop computers, mobile phones, and smartphones.
- **Eligible Uses**
 - Eligible equipment and services purchased with ECF support must be used primarily for educational purposes. "Educational purposes" are activities that are integral, immediate, and proximate to the education of students in the case of a school or integral, immediate and proximate to the provision of library services to library patrons in the case of a library.
- **Eligible Services**
 - Commercially-available fixed or mobile broadband Internet access services, including those available for purchase by schools and libraries through bulk purchasing agreements. Unless there is no internet access service available to purchase in an area, schools and libraries will

only be reimbursed for purchasing a commercially available service providing a fixed or mobile broadband Internet access connection for off-campus use.

- Cable modem, Digital Subscriber Line (DSL), leased lit fiber, satellite, and wireless (e.g., fixed wireless, microwave, or mobile broadband) are eligible services.
- Other types of equipment, services, or software such as cybersecurity tools, learning management systems, private network services, online learning services that support online learning platforms, video conferencing equipment, and standalone microphones are not funded by the ECF.
- Any components purchased with the eligible equipment and necessary for the equipment to operate, such as cords and chargers, do not require cost allocation.
- Limited Exception for Network Construction and/or Datacasting Where There is No Commercially Available Internet Access Service Option
 - ECF support **cannot** be used for additional equipment for network expansion, including antennas, cell towers, CBRS, TVWS base stations, or drone-powered Internet, and other such wireless network equipment, except where no commercial Internet service is available for purchase.
 - In instances where there is no commercially available service for purchase available to reach students, school staff, and library patrons, eligible schools and libraries may seek support to construct a third-party broadband network or a self-provisioned broadband network, and/or purchase customer premises equipment to receive datacasting services.
 - Applicants seeking support for network construction, self-provisioning, and/or customer premises equipment to receive datacasting services must demonstrate that there were no commercially available options and that services were provided to students, school staff, or library patrons during the COVID-19 emergency period.
 - Eligible costs include monthly charges, special construction, installation and activation charges, modulating electronics and other equipment necessary to make a broadband Internet access service functional, and maintenance and operation charges.
 - The eligible components of special construction are construction of network facilities, design and engineering, and project management. Customer premises or end-user equipment to receive datacasting services.
 - The construction of new networks (including the construction of self-provisioned networks) are ineligible for funding except in the limited instance described above. Dark fiber and the electronics to light dark fiber are ineligible.

Examples of Ineligible Costs

- Examples of ineligible costs include, but are not limited to: administrative costs; charges not associated with purchase of the eligible equipment and services; software, user licenses, filtering and firewall

services that are purchased separately and are not included in the base price for the equipment; back-up power equipment; cybersecurity tools; dark fiber; eligible equipment or services purchased before March 1, 2020; filtering services needed for Children’s Internet Protection Act compliance; headsets; learning management systems; separate costs for non-connected accessories; mobile phones, including smartphones, standalone microphones, and standalone cameras; technical support, maintenance costs, separate costs for warranties and protection plans; video conferencing equipment and related software subscriptions (e.g., Zoom subscriptions); and voice services.

- Participants may not use ECF support to purchase, rent, lease, or otherwise obtain any covered communications equipment or service from a company identified as posing a national security threat to the integrity of communications networks or the communications supply chain.

Application Details

First Application Window (Expected Early June)

- USAC will open a 45-day ECF Program filing window for purchases for the upcoming school year (purchases made between July 1, 2021 and June 30, 2022).

Second Application Window (TBD)

- If funding is available after the initial filing window for the 2021-22 purchases, the FCC will open a window for funding of purchases already made by schools or libraries between March 1, 2020 and June 30, 2021 to provide remote connectivity.

Application Process

- FCC Form 472 or 474
 - All eligible participants must submit requests for reimbursement by filing FCC Form 472 (Billed Entity Applicant Reimbursement Form) or FCC Form 474 (Service Provider Invoice) and submit the completed form to the Administrator website once it becomes available.
- Invoices and Verification of Payment
 - Applicants must submit invoices detailing the items purchased or ordered at the time FCC Form 472 or 474 is submitted.
 - Applicants that seek payment from the ECF prior to paying their service provider(s) must also provide verification to the service provider(s) within 30 days of receipt of funds.
- Reimbursement and Invoice Processing
 - The Administrator shall accept and review requests for reimbursement and invoices subject to the filing deadlines. 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 successful appeal of previously denied or reduced funding; or service delivery date, whichever is later.

ECF Funding Restrictions

Gift Restrictions and Competitive Bidding Requirements

- E-Rate program gift restrictions apply. Eligible recipients 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.
- The E-Rate program's competitive bidding requirements **do not apply** to ECF purchases. However, a school, library, or consortium seeking to participate in the ECF must comply with any applicable state, local, or Tribal procurement requirements for all equipment and services supported by Fund.

Service Locations

- Service locations may include, but are not limited to, 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. Applicants 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, but some use of eligible equipment and eligible mobile services at the school or library is permitted.
- ECF support for eligible equipment and services is limited to no more than one fixed broadband Internet access connection per location or one Wi-Fi hotspot device per student, school staff member, or library patron. For purposes of the per-location limitation imposed on fixed broadband Internet access services, each unit in a multi-tenant environment is a separate location for purposes of this paragraph. Eligible equipment is limited to one connected device per student, school staff member or library patron.

Duplicate Support

- Applicants may not seek ECF support or reimbursement for eligible equipment or services that have been purchased with or reimbursed in full from other federal pandemic-relief funding (e.g., the Emergency Broadband Benefit program), targeted state funding, other external sources of targeted funding or targeted gifts, or eligible for discounts from the E-Rate program or other universal service support mechanisms.

Treatment, Resale, and Transfer of Equipment

- Eligible equipment and services purchased with ECF support shall not be sold, resold, or transferred in consideration of money or any other thing of value, unless it is considered obsolete. Eligible equipment is considered obsolete if it is at least three years old. Obsolete equipment may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

Compliance and Oversight Requirements

Audits

- ECF recipients are subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the ECF, including those requirements pertaining to what equipment and services are purchased, what equipment and services are delivered, and how equipment and services are being used.

Inspections and Investigations

- Schools, libraries, consortia, and service providers shall permit any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General or any local, state or federal agency with jurisdiction over the entity to enter their premises to conduct inspections for compliance with the statutory and regulatory requirements of the Emergency Connectivity Fund.

Production of Records for Audits, Inspections, and Investigations

- Where necessary for compliance with federal or state privacy laws, Emergency Connectivity Fund participants may produce records regarding students, school staff, and library patrons in an anonymized or de-identified format. When requested by the Administrator or the Commission, as part of an audit or investigation, schools, libraries and consortia must seek consent to provide personally identification information from a student who has reached the age of majority, the relevant parent/guardian of a minor student, or the school staff member or library patron prior to disclosure.

Records Retention

- ECF participants must retain records related to their participation in the Program sufficient to demonstrate compliance with all program rules for at least ten (10) years from the last date of service or delivery of equipment. Participants must present those records upon request by the Administrator, FCC, or any agency with jurisdiction over the FCC.

Children's Internet Protection Act Certifications

- ECF participant must make certifications under 47 U.S.C. §§ 254(h) and (l), also known as Children's Internet Protection Act (CIPA) compliance. If a participant has already certified its CIPA compliance for the relevant funding year, it does not need to do so again.

Appeal and Waiver Requests

- Any party can seek review from the Administrator (USAC) or the FCC depending on the issue. Parties seeking waivers of the FCC's rules can seek relief directly from the FCC and not the Administrator.
- The affected party must file a request for review by the Administrator or FCC within thirty (30) days of the Administrator's decision. (Note: this is shorter than the 60-day time period for E-Rate appeals.)

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