

FCC Hurricane Orders

Schools and Libraries Universal Service Support Mechanism

CC Docket No. 02-6, First Hurricane Order, DA 17-984 (Released October 6, 2017)

CC Docket No. 02-6, Second Hurricane Order, FCC 17-139 (Released October 30, 2017)

Introduction

The First FCC Hurricane Order, released October 6, 2017, waives certain E-rate rules and deadlines to assist schools and libraries located in areas affected by Hurricanes Harvey, Irma, and Maria.

The Second FCC Hurricane Order, released October 30, 2017, provides relief to two categories of applicants; those in Directly Impacted Areas (DIA) and Indirectly Impacted Schools (IIS).

Discussion and Results

Hurricanes Harvey, Irma, and Maria caused widespread and catastrophic damage, destroying and damaging several schools and libraries in Gulf Coast, Eastern Seaboard, and Caribbean. With the First Hurricane Order, the FCC waived certain rules and deadlines to assist schools and libraries that were designated as Major Disaster Areas eligible for federal disaster relief by FEMA. The deadlines for the following were waived and applicants in affected disaster areas were granted an additional 150 days from the date of the order to submit the required filing for the following:

- Requests for review or waiver of decisions by USAC, directed to USAC or the Commission
- Filing FCC Form 486 (Receipt of Service Confirmation and Children's Internet Protection Act Certification (CIPA) Form)
- Filing FCC Form 472 (Billed Entity Applicant Reimbursement (BEAR) Form) and Form 474 (Service Provider Invoice Form)
- Service implementation deadlines
- Conditionally waived record keeping requirements for records that were destroyed by the Hurricanes

With the Second Hurricane Order, the FCC provided additional relief to applicants in directly impacted areas, and schools indirectly impacted by absorbing students displaced by the hurricanes. Schools and libraries located in counties designated by FEMA as eligible for individual disaster assistance are eligible for the following relief. The Order:

- Opens a second Funding Year 2017 application window
- Resets per-school per-library five-year budgets for Category 2 services (5-year budget will begin in the first year Category 2 service is requested after date of the Order)
- Provides flexibility for applicants to request service substitutions for a service or a product that has been disrupted, destroyed or rendered unusable by Hurricanes (for DIA schools rule is modified to exclude requirement that substituted product have the same functionality as the service or product it is replacing)
- Grants the maximum discount level for DIA applicants. i.e. 90 percent for Category 1 and 85 percent for Category 2

Schools that incurred additional costs because student counts have increased by 5 percent more due to serving displaced students are eligible for the following relief:

- Allows submission of a supplementary Funding Year 2017 FCC 471 during the second application window to cover increased costs from increased student populations

Second Funding Year 2017 Application Window

The second Funding Year 2017 application window is only open for 30 days, starting November 13th and closing on December 13th. This application window has the following modifications:

- Applicants in directly impacted areas need only wait 14 days prior to selecting a service provider and filing the FCC 471
- Applicants in directly impacted areas can submit FCC 471 without initiating a new competitive bid process if:
 - Applicant already sought bids for the services with a Form 470
 - Received a FCDL from USAC approving a Funding Year 2017 request
 - Requests additional discounts during second Funding Year 2017 window to purchase the same services or equipment on similar terms & conditions¹

Applicants filing in the second application window must meet the following additional guidelines and requirements:

- Beneficiaries and service providers receiving more than \$500,000 through the second application window will be subject to an automatic audit
- Prohibition on the free services requirement is retained and applicants must pay the entire non-discounted portion of the cost of any service or product purchased with E-rate
- Record retention is required for temporary rules in compliance with recordkeeping requirements
- Necessary resources requirement is retained

Date of Rules

For both Hurricane Orders, the temporary rules became effective immediately upon release of the Orders (October 6 and October 30, respectively). The sunset of temporary rules will be reevaluated before Funding Year 2018 application window.

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¹ Applicants must add information to the narrative of the relevant FCC 471 funding request (a) identification numbers for the FY 2017 FCC 471 and FRN previously relied on the FCC 470; (b) a statement confirming that the services or equipment for which the applicant previously requested E-rate discounts for FY17 were delivered prior to the Hurricanes and subsequently disrupted, destroyed or damaged; (c) statement confirming additional E-rate requested discounts are to replace those services by the pertinent service implementation deadline