



May 17, 2021

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic, WC Docket No. 21-93

Questions concerning Emergency Connectivity Fund Report and Order FCC 21-58
(Order released May 11, 2021)
Ex Parte Submission

Dear Secretary Dortch:

The State E-rate Coordinators' Alliance ("SECA") has reviewed the FCC's Report and Order 21-58 and requests that the FCC address the following inquiries so that applicants may have a precise understanding of the parameters of the Order and the requirements for applying for ECF funding.

Eligible Recipients

- 1) Paragraph 63 states: "...we emphasize that the provision of eligible equipment and services for school staff is limited to school staff that will be providing (or provided) educational services during the relevant time periods and would otherwise lack access to connected devices or broadband connections sufficient to facilitate remote learning during the pandemic."

-- Is the definition of "educational services" in this context intended to be limited to school staff members who are involved directly with the education of students such as teachers and para-professionals?

Certifications

- 2) Section 54.1710 states in subsection(a)(1)(iv): "The funds sought in the request for reimbursement are for eligible equipment and/or services that were purchased or ordered in accordance with the Emergency Connectivity Fund Program rules and requirements *and received* by either the school, library, or consortium, or the students, school staff, or library patrons as appropriate." (emphasis added).

-- Should this language read "received or will be received" in light of the final order establishing the first window as a prospective filing period?

- 3) Can connected devices be "ordered" prior to July 1, 2021 and received after July 1, 2021? (prospective window)

- 4) If the devices are ordered and received prior to June 30, 2021, would these devices be ineligible for the prospective filing window?
- 5) Will a purchase order qualify as “proof of order” for the ECF Form 471 application?
- 6) Will applicants be required to upload proof of ordering or a vendor quote with the Form 471 application? If so, will this functionality be available within the Form 471 or will every applicant be required to go through PIA review where they are asked to upload this information? Alternatively, will applicants be required to develop Contract Records in EPC as they do now?

Invoice Questions

- 7) Section 54.514 states: “We permit applicants and service providers to submit reimbursement requests and invoices for prior and prospective purchases for 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 a previously denied or reduced funding commitment; or service delivery date, whichever is later.” (See also ¶ 90).
 - a) Is this language intended to model the current E-rate fund invoice practices, except that rather than providing 120 days applicants have 60 days to submit reimbursement invoices to USAC?
 - b) If so, does the reference to service delivery date also mean the last date to receive service (June 30, 2022)? Meaning, do applicants have 60 days following June 30, 2022 to submit reimbursement invoices to USAC?
 - c) If not, are applicants required to submit monthly reimbursement invoices for recurring services because there are monthly service delivery dates? (We hope this is not what the FCC is requiring.)
- 8) Are applicants allowed to pre-pay recurring services to the service provider for the entire year and then submit for ECF reimbursement? The advantage to this is the funds would be captured from the fund much more quickly than waiting until 60 days after the June 2022 invoice.
- 9) If an applicant opts to request a pre-reimbursement payment from ECF prior to paying the vendor, can the applicant request reimbursement from ECF for all 12 months of a recurring service and then remit payment to the service provider as a prepayment? Obviously, this would be much preferred over requiring applicants to seek pre-reimbursement payments every month.
- 10) Section 54.514 states in Footnote 51 that the payment of reimbursements must be authorized by an FCC official. Paragraph 21 states: “...we direct the Bureau in consultation with the Office of the Managing Director to work closely with USAC on the creation of an invoicing system for the Emergency Connectivity Fund Program that allows Program participants to easily submit invoices and USAC to promptly review those invoices.”
 - a) Is there going to be a new invoicing system other than the existing BEAR/SPI system for submission of invoices?
 - b) If so, what is the timeline for the new system?

- c) If so, will schools and libraries submit invoices within EPC or will there be a separate portal that requires a new log-in?

Determining Need for Service/Equipment

- 11) Paragraph 81 states: “We, therefore, will not impose any specific metrics or process requirements on those determinations, but we expect schools to take reasonable measures to determine need, avoid duplicating support provided by other programs such as the Emergency Broadband Benefit Program, and document need to the extent they do not already do so.”
 - a) If a district-owned connected device has already been assigned to a student that needs the device for remote online learning, but the device is no longer sufficient, can the district receive ECF money to purchase a new connected device?
 - b) If so, is there a required minimum age of the existing device prior to qualifying for an ECF funded replacement device? For example, does the device have to be at least 3 years old before a new device could be purchased?
 - c) Is there a minimum number of days that hotspots or connected devices must be in use, that is, loaned out to library patrons, to justify ECF funding approval? Some libraries are concerned that if they request 50 hotspots, but only 35 are checked out in one month, they will be required to repay the funds for the 15 that were not in use that month.

Eligible Services

- 12) The Eligible Services List states: “Installation, activation, and initial configuration costs, taxes, shipping charges, and other reasonable fees incurred with the purchase of the eligible equipment and services are eligible for support under the Emergency Connectivity Fund Program.”
 - a) Is installation and configuration that is performed by a third-party vendor (different from the vendor that sold the equipment to the applicant) eligible for ECF reimbursement?
 - b) If so, should the cost of such installation/configuration be considered as the \$400 device cap?
- 13) The Eligible Services List states that “Software, user licenses, filtering and firewall services that are purchased separately and are not included in the base price for the equipment.”
 - Does this mean that licenses that are part of the base price of equipment, are eligible, but if the same license is priced separately, it would be ineligible?
- 14) Section 54.1702(b)(1) states in pertinent part, “services eligible for Emergency Connectivity Fund support shall be *commercially-available fixed or mobile broadband internet access services...*” (emphasis added).
 - Does it mean that the services are required to be available to the general public?
- 15) May equipment be leased/rented rather than purchased?
- 16) Can schools use ECF support for internet on buses that take students to/from school (meaning there is no requirement that school bus internet be limited to “parked” buses)? (Re ¶¶ 49, 61).

17) For parked school buses, are other members of the community permitted to use the internet access? Or only students and eligible school staff?

Coordination of Funding

18) Regarding the interrelationship between EBB and ECF: Paragraph 125 states: “For example, if a student’s household is receiving support from the Emergency Broadband Benefit Program for broadband internet access connectivity, the student would not be eligible for broadband connectivity under the Emergency Connectivity Fund Program.” (emphasis added).

--Where a school provides a hotspot and internet access service plan to a student who needs it, and the student attends a facility after school where the student is part of a group who engages in after-school remote learning, and where the school has paid for a hotspot and internet access for the after-school facility, please confirm that the school is not required to perform any complex cost allocation to deduct the cost of the after school facility’s hotspot/internet attributed to the student who has his/her own school-provided hotspot and internet service. (§ 51).

19) Section 54.1711 (a)(1)(vii) states that applicants must certify on their Form 471 applications that: “The school, library, or consortium is not seeking Emergency Connectivity Fund reimbursement for eligible equipment and/or services that have been purchased and reimbursed in full with other federal pandemic relief funding (e.g., CARES Act, Emergency Broadband Benefit Program or other provisions of the American Rescue Plan), targeted state funding, other external sources of targeted funding, or targeted gifts or eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanisms;”

-- Is it correct that a household cannot receive more than one fixed internet service connection that is supported from either EBB or ECF, but a hotspot may be assigned to each student living in a household if it is needed for remote learning?

CIPA Applicability and Compliance

20) Please confirm the following provisions of the Report and Order:

- a) All connected devices owned by a school or district that receives E-rate funding for internet or Category 2 internal connections or will receive ECF funding for internet must be compliant with CIPA. This applies regardless of whether the device is connected or not connected to an E-rate or ECF supported internet service.
- b) Devices owned by a school or district that does not receive E-rate funding for internet or Category 2 internal connections or will not receive ECF funding for internet are not required to be compliant with CIPA.
- c) Devices not owned by a school or district do not have to be compliant with CIPA even if the device uses E-rate or ECF supported internet.

21) For the “undertaking actions” certification option, will schools be given one year to become fully compliant school-owned devices that are used off-campus? If so, does the “one-year” end June 30, 2022?

22) Should applicants with non-CIPA compliant devices used off-campus also check the “undertaking actions” certification on any Form 486 they may file in the E-rate program prospectively for FY 2021?

23) Some school-owned hotspots assigned to students for remote learning are configured so that the initial connection to the internet first passes through the district's filter which is housed at the district's on-campus hub site. After the filtering is done, the hotspot then accesses the internet using the school's E-rate supported internet and will continue to use the school's filter as the hotspot accesses different content on the internet. This configuration is the way in which the school complies with CIPA for school owned devices assigned to students for remote learning. Is this permitted?

Uniform Grant Guidance 2 C.F.R. §200 *et seq.*


24) Will the FCC and OMB classify the ECF as being subject to the Uniform Grant Guidance, Parts A, B, E and F, but not Parts C and D, consistent with the way in which the Telehealth program has been classified? Otherwise, applicants will have to comply with the stringent procurement requirements of Parts C and D which would impose a federal competitive bidding requirement that was intended to be exempted by forgoing the FCC Form 470 competitive bidding requirement.

Gift Rule Prohibition

25) Does the gift rule prohibition in Section 54.1704 apply to any vendor or service provider that sells services or equipment to an applicant for which reimbursement is sought, even if the service provider or vendor is not part of the regular E-rate program and does not have a SPIN?

We welcome the opportunity to discuss these questions with the Wireline Competition Bureau and to provide any clarifications to our inquiries.

Respectfully Submitted,



Debra M. Kriete, Esq., Chair
State E-Rate Coordinators' Alliance
1300 Bent Creek Blvd, Ste 102
Mechanicsburg, PA 17050
717 232 0222
dmkriete@comcast.net