



February 11, 2022

Honorable Jessica Rosenworcel, Chairwoman  
Honorable Brendan Carr, Commissioner  
Honorable Geoffrey Starks, Commissioner  
Honorable Nathan Simington, Commissioner  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

Re: Establishing Emergency Connectivity Fund to Close the Homework Gap, WC Docket No. 21-93  
*Ex Parte* Request for Relief from FY 2021 Service Delivery Deadlines and Suggestions for Window 3

Dear Chairwoman Rosenworcel, Commissioner Carr, Commissioner Starks and Commissioner Simington:

The State E-rate Coordinators' Alliance ("SECA") supports the request submitted by SHLB and other stakeholder groups for relief from the June 30, 2022 service delivery deadline governing all FY 2021 ECF funding requests. For a variety of reasons, some of which we articulate below, many applicants will be unable to benefit from the total amount of approved funding for FY 2021 unless the June 30, 2022 service delivery deadline is extended.<sup>1</sup>

Additionally, SECA supports creating a third filing window ("Window 3") for the FY 2022 period and we have some specific actions on how to integrate the implementation of the FY 2021 service delivery deadline extension and the acceptance of funding applications for FY 2022. These actions need to be coordinated to ensure funding already approved can be fully used and will not overlap (i.e., duplicate) with new funding requests for FY 2022. We also encourage the Commission to allocate funding for broadband and internet recurring services and equipment first, and if remaining funds are still available, then fund connected devices and network build-out costs. This approach will most efficiently utilize the limited remaining ECF funds.

Below, we set forth our recommendations for implementing the service delivery deadline extension for recurring services FRNs and non-recurring services FRNs approved for FY 2021 as well as suggestions for efficiently administering Window 3 to maximize continuous broadband and internet access through June 30, 2023, and thus continue to work on closing the Homework Gap for another year.

### **Need for FY 2021 Recurring Services Delivery Deadline Extension**

SECA believes there are several factors at play that will preclude many applicants from using all 12 months of their FY 2021 funding for recurring services. First, many applicants applied for 12 months of funding but due to economic circumstances, had to wait to place orders for services until they received their funding approvals. Approvals began September 21, 2021, and continue to the present. It is structurally impossible for an applicant to expend all 12 months of funding if they waited for their funding approval and if the service delivery deadline remains June 30, 2022.

---

<sup>1</sup> January 28, 2022 letter request filed by SHLB, et al. <https://www.fcc.gov/ecfs/filing/101281737819629>; February 9, 2022 SHLB *ex parte* letter, <https://www.fcc.gov/ecfs/filing/10209708219623>; February 9, 2022 Letter filed by E-mpa®, <https://www.fcc.gov/ecfs/filing/10209031575124>.

Second, applicants may have had to order equipment to use in connection with recurring services, such as hotspots, routers, modems, combination router/modems to be able to use the recurring services. Supply chain delays occurred, which then also extended the start date of the related recurring services.

Third, some applicants have not yet received their funding approvals. These applicants could not use all their recurring service funding unless they had incurred the expenses on their own and are waiting, hopefully, to receive their funding approvals. Many applicants have not pursued this route because they could not afford the upfront expenses without certainty their funding request would be approved.

Modeling ECF after E-rate was an efficient way to activate the ECF application process in a remarkably short time frame. Unfortunately, the huge benefit of the E-rate program that allows the administrator to issue so many FCDLs **prior to** the start of the funding year, was not available in FY 2021 ECF due to the timing of the application filing window and start of the funding year. It is a unique situation for the ECF's first year and thus warrants allowing applicants to extend their service delivery deadlines beyond June 30, 2022, for their recurring services FRNs.

We believe the reasons outlined above to be compelling, and therefore, we recommend allowing applicants to extend the service delivery deadline for FY 2021 FRNs up to June 30, 2023. Extending the FY 2021 recurring service delivery deadline will allow applicants to use their already committed funding during FY 2022, assuming they have not used all 12 months of their approved FRN by June 30, 2022. This means that in Window 3 (which we recommend below) when applicants file for FY 2022 recurring services that are a continuation of FY 2021 FRNs, applicants with FY 2021 extended service delivery deadlines will not need an additional 12 months of funding. Rather, they should only need funding for the number of months remaining in FY 2022 that are not covered by their FY 2021 funding.

For example, and for illustration purposes: An applicant is approved for 12 months of recurring service in December 2021 and did not order the service before receiving funding approval. Service is ordered and activated on February 1, 2022, and therefore, the applicant would use five months of service through June 30, 2022. This leaves seven months of unused funding that a service delivery deadline extension would allow to be used through January 31, 2023. In FY 2022, Window 3, the applicant would need only five months of additional funding to cover the period February 1, 2022 through June 30, 2023.

Certainly, when applicants applied for ECF funding they assumed it would cover a 12 month period as stated in the regulations, thus applicants should be permitted to request a service delivery deadline extension that accurately reflects the 12 months of ECF funding from FY 2021 commitments. An automatic extension for all FY 2021 FRNs through June 30, 2023 may appear to be an easier approach. However, we do not believe this is feasible if the Commission opens a third filing Window because the administrator may be unable to discern whether a FY 2022 recurring services funding request was fully, partially or not at all duplicative of the FY 2021 FRN.

Likewise, an applicant could choose not to request a service delivery deadline extension for FY 2021 and simply apply for a full 12 months' worth of service in Window 3. The risk of this approach is that not enough funding will be available, and thus some applicants will not receive Window 3 funding (see our suggestion below that addresses this issue).

The functionality for service delivery deadline extension requests already exists in the ECF post commitment module inside EPC. Applicants would need training and outreach to understand how to determine how many months of service would flow over to FY 2022 (i.e., past June 30, 2022) and how to compute their new service delivery deadline. We also recommend that applicants be encouraged to file such requests prior to submitting a Window 3 Form 471 application. Last, we recommend that USAC be directed to process all such post-commitment requests within 30 days of submission to allow for expeditious processing of Window 3

applications. Since funding has already been approved, such requests should be automatically approved or subject to just minimal review and outreach from the administrator.

### **Need for Non-Recurring Services Delivery Deadline Extension**

Due to the emergency nature for which these funds were allocated, and the documented application processing delays and supply chain delays, we believe the public interest is served by granting a blanket service delivery deadline extension for all FY 2021 non-recurring services FRNs. Implementing an automatic extension will be the least burdensome path forward for both applicants and USAC. This approach will not add to USAC's workload and will thus allow USAC to concentrate on processing the remaining FY 2021 Form 471 application and currently pending post-commitment requests as well as the additional service delivery extension requests for recurring services that would be submitted if our recommendations are adopted.

We realize that by granting such an extension, it will extend the FY 2021 invoice deadline to August 29, 2023, for these FRNs and therefore postpone the recapture of any unused funding for FY 2021 non-recurring service FRNs. Based on our experience to date, we envision that most of the funding for connected devices and other equipment will be used and reimbursed, and the amount of recapture may not be sizeable.

### **New Filing Window for FY 2022 ("Window 3")**

We anticipate, and support, the opening of a third filing window to allow applicants to use the remaining uncommitted ECF funding. We estimate that there will be at least \$824.6 million available for the third window. This includes the \$700 million not requested in FY 2021 Windows 1 and 2, and an additional \$124.6 million available as the result of application cancellations and denials. The total amount available is likely to be larger than we estimate when funding reductions are included in the calculations.

We recommend that the funding period for FY 2022 be prospective because we think it is the most effective use of ECF funds. First, applicants already have concluded their purchases and accounting for FY 2020. Second, it makes the best policy sense to be forward looking and consider the future rather than past needs of school students, educators and library patrons.

We encourage the Commission to open Window 3 as quickly as possible in the spring of 2022 so that applicants will be able to receive their FCDLs as close to the start of the new funding year as possible. We suggest that the window should be open for 30 days so that USAC can begin issuing FCDLs as quickly as possible and prior to the start of the new funding year. By announcing the dates of the application window as far in advance as possible so that applicants needing more time to prepare their requests can begin their work.

Further, we ask the Commission to direct USAC to process all workable FY 2022 applications by July 1, 2022, so schools and libraries are not forced to suspend or terminate services while awaiting an FCDL. The American Rescue Act specifically allocated up to 2% of the \$7.17 billion (\$143 million) for administrative support to administer the Emergency Connectivity Fund program, and we strongly encourage the Commission to use these funds to put this program on solid footing so ECF support can be used by our schools and libraries in the time frame and purpose for which they were intended.

We encourage the Commission to coordinate the implementation of the FY 2021 service delivery deadline extension procedure with the upcoming filing window to ensure adequate measures are in place to continue efficient and effective allocation of ECF support. We believe measures need to be put into effect to ensure that funds in FY 2022 are committed only for those months of services that will not be funded with FY 2021 support that is allowed to be used during FY 2022. To that end, we recommend the following framework be established. This approach does not alter the format of the Form 471 application and leverages existing post-commitment functionality.

- Applicants with approved recurring service FRNs that will not use all 12 months of funding by June 30, 2022, shall file a post-commitment request to extend their service delivery date until all 12 months of service are finished. For example, if service began October 1, 2021, their new service delivery deadline would be September 30, 2022.
- When Window 3 opens, applicants requesting recurring service FRNs that are a continuation of a FY 2021 FRN should be encouraged to note the FY 2021 FRN in the application narrative and provide the post-commitment request number where an extension of the FY 2021 service delivery deadline was requested. The FY 2022 FRN service start date must be after the FY 2021 service delivery deadline requested on the post-commitment request. Funding for recurring services in FY 2022 that are a continuation of a FY 2021 application should be available only for the months not paid for with the extended FY 2021 FRN. This will ensure there is no overlay or duplication of funding in FY 2021 and FY 2022.
- New recurring service FRNs, and recurring service FRNs for which all the funding was used by June 30, 2022, would be eligible for all 12 months of funding for FY 2022.
- Applications for non-recurring services would likewise need to show that the FY 2022 requests are not duplicative of FY 2021 non-recurring service FRNs that have been extended automatically through June 30, 2023.

### **Rules of Distribution of Funding for Window 3**

SECA requests the order of priority of processing of Window 3 applications be adjusted to place the highest priority on funding recurring service FRNs and FRNs for equipment needed for broadband connectivity and internet access. The applicants with the highest discounts in the current E-rate program (with the 5% additive for rural applicants) would continue to be first in line for funding of these requests. If any funding remains after all recurring services and internet equipment FRNs are processed, connected devices and network build-out costs would be funded with the highest discount applicants being at the head of the line.

We believe this approach is in the public interest because it balances the availability of limited funding and the need for schools and libraries to be able to continue to receive ECF money to pay for remote internet services for an additional year. We additionally raise the following considerations that we believe are compelling.

First, most of the funding in Windows 1 and 2 – nearly 80% of the funding -- is being used to purchase laptops and tablets, and therefore ECF already has met the need for these devices. In other words, we think the great majority of need for connected devices was met in the first two filing windows. These already purchased devices surely will continue to be available for use in FY 2022.

Second, many applicants have expressed concern about how they will pay for internet access to students, teachers and library patrons that need it, beyond June 30, 2022. The service delivery deadline extension for FY 2021 will help ensure continuous funding for some applicants but does not solve this dilemma completely. Placing the highest priority on funding these requests will best ensure that remote internet connectivity will be available to those with a need through June 30, 2023.

Third, this approach reflects the reality that the amount of available funding for Window 3 is not expected to be able to support both recurring service and non-recurring service requests except for the applicants with the very highest discount and NSLP percentages. Such an outcome would undermine the ability of the Commission to ensure that remote internet access would be ubiquitously available across the country to students, educators and library patrons for an additional year. It also would encourage most applicants to go through the time and trouble of applying for ECF in Window 3 and many would be denied funding because program money ran out. This would be an extremely disappointing and inefficient use of everyone's time.

Further, we encourage the Wireline Competition Bureau and the Office of Managing Director to exercise their delegated authority to clarify the rules of distribution in 47 C.F.R. §54.1708(c) to implement this approach as follows:

(c) *Rules of distribution.* When the filing window(s) described in paragraph (b) of this section closes, the Administrator shall calculate the total demand for support submitted by applicants during the filing window. If total demand exceeds the total support available, the Administrator shall allocate funds to these requests for support for eligible equipment and services in 47 C.F.R. §54.1702 (a)(1)-(a)(3) and (b)(1), beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries category one discount matrix in 47 C.F.R. § 54.505(c) adjusted to provide a five percent increase for rural schools and libraries, as shown in the following matrix.

	Emergency Connectivity Fund Prioritization Matrix	
	Discount Level	
% of students eligible for National School Lunch Program	Urban	Rural
< 1.....	20	30
1-19.....	40	55
20-34.....	50	65
35-49.....	60	75
50-74.....	80	85
75-100.....	90	95

Schools and libraries eligible for a 95 percent discount shall receive first priority for the funds. The Administrator shall next allocate funds toward the requests submitted by schools and libraries eligible for a 90 percent discount, then for an 85 percent discount, and shall continue committing funds in the same manner to the applicants at each descending discount level until there are no funds remaining. If the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program.

If funds remain available, the Administrator shall next allocate funds for requests for eligible items specified in 47 C.F.R. §54.1702 (a)(4) and (b)(1) to the most economically disadvantaged schools and libraries in the same manner described above.

This approach retains the rules of distribution and adds an additional level of specificity to ensure the efficient distribution of limited funds. It also is consistent with the delegation of authority authorized in the May 11, 2021 Report and Order FCC 21-58:

- Paragraph 85 of FCC 21-58 recognizes the need to balance the cost-effectiveness of opening an additional window considering the amount of remaining funds and delegated authority to Wireline Competition Bureau (WCB) and the Office of Managing Director (OMD) to figure out when that point has been reached. This clarification will help ensure the cost effectiveness of opening a third window will be realized and ensure efficient program administration.
- Paragraph 141 of FCC 21-58 states the scope of delegation of authority to WCB to implement the decisions reached in the Order to be:

Those implementing decisions may include providing additional detail and specificity to the requirements of the Program to conform with the decisions in this Report and Order, thus ensuring the efficient functioning of this Program.

- Similarly, Paragraph 144 also delegates authority to both WCB and OMD as follows:

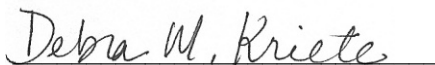
We recognize that, once implementation of the Emergency Connectivity Fund Program begins, the Bureau or USAC may encounter *unforeseen issues or problems* with the administration of the Program that will need to be resolved. To promote maximum effectiveness and smooth administration of the Emergency Connectivity Fund Program, we delegate this authority to Bureau staff to address and resolve such issues related to the administration of the Emergency Connectivity Fund Program provided that doing so is consistent with the decisions we reach here today. (emphasis added).

In the May 11, 2021 Report and Order, the Commission sought to ensure that funding would be prioritized to meet the needs of high poverty and rural schools and libraries. This will still be the case with this clarification. Likewise, the adjusted approach will ensure that ECF will be able to continue to support remote learning for another year with the connected devices previously purchased with Window 1 and Window 2 ECF funding. Hence, the requested clarification is consistent with the Commission's May 11, 2021 Order.

The delegation of authority to WCB and OMD includes the ability to waive the regulations when in the public interest, evidenced by the actions taken to date. The WCB and OMD previously exercised this authority to waive and clarify the definition of the service delivery date and invoice deadline<sup>2</sup> and address waivers of the \$400 per device cap.<sup>3</sup> We believe that this requested clarification and waiver of the rules of distribution would be consistent with the Commission's initial Report and Order and the authority given to WCB and OMD to handle the details of implementing ECF.

SECA appreciates the opportunity to provide our perspectives on these important issues and hopes that our technical proposals are helpful to the Commission as the agency considers next steps in ensuring the best continued administration of the ECF program. We urge the Commission to act swiftly and provide certainty to applicants.

Respectfully submitted,



Debra M. Kriete, Chairperson  
State E-rate Coordinators' Alliance  
1300 Bent Creek Blvd, Ste 102  
Mechanicsburg, PA 17050  
dmkriete@comcast.net  
717-232-0222 (voice)

---

<sup>2</sup> <https://www.fcc.gov/document/wcb-waives-ecf-invoice-deadline-and-clarifies-service-delivery-date>; Establishing Emergency Connectivity Fund to Close the Homework Gap, WC Docket No. 21-93, Order (released December 2, 2021), DA 21-1499.

<sup>3</sup> Requests for Waiver and Review of Decisions of the Emergency Connectivity Fund Program Administrator by Fresno Unified School Districts, et al., File Nos. ECF202108943, et al., Order (released January 4, 2022), DA 22-7.