

UEN E-rate News & Updates



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Funding Updates

Funding Wave 12 for 2009 and Wave 60 for 2008 will both be released this week. 2009 funding is still limited to Priority 1 only. Priority 2 funding at the 87% discount level for FY 2008 is still being discussed.

For 2008, USAC committed \$5,937,457 to Non-UEN Utah E-rate applicants. To date, only \$664,412 has been invoiced to USAC for services that are in place! Now that we're in July and most June bills have been paid, it is time to submit invoices for all 2008 recurring services. During these summer months, prior to the hectic activity surrounding the beginning of the school year is the best time to prepare and submit invoices to USAC. If you do not invoice USAC, the funding effectively goes away! Please do not wait to submit invoices. If you have any questions about completing the Form 472, either online or on paper, please contact us at UEN for assistance.

For 2009, USAC through Wave 12, 92 Utah regional, school, and library applicants have received USAC funding commitments totaling \$2,936,123. None of these are for UEN funding requests.

Deadlines!

July 1st always brings with it several E-rate Program related activities that applicants should be considering now. Looking back at funding year 2008, now is the time for most applicants to assemble their actual costs of the services for which they've paid from July 1, 2008 through June 30, 2009. This is necessary to fully prepare your **BEAR Form (FCC Form 472)** invoices for submission to USAC, whether done with a paper form or online. As the 2008 invoice deadline approaches we will begin reaching out to remind applicants and to assist with invoicing as needed.

Many Utah applicants already have their Funding Commitment Decision Letters from USAC for 2009 (July 1, 2009 through June 30, 2010). If you are one of the fortunate 92 in Utah, you should not delay submission of **FCC Form 486** for all services in place as July 1st. Remember, Technology Plans must be approved by the USAC "certified approver" prior to service start. UEN works closely with USOE in maintaining technology plans and documenting their approval for public school districts, Charter schools, some non-profits and libraries. If you have any questions about creating, updating, or approval of your technology plan, please contact one of UEN's E-rate staff for additional assistance. UEN maintains copies of Technology Plan approval letters from the "USAC Certified Technology Plan Approver" for all consortium members.

Also, take care to check Block 2, Item 6, a. on form 486 if you submit it prior to July 31st. Forms 486 submitted during the month of July are still considered "early" filings. Also, for many such as Head Starts and new Charter Schools, in Form 486 Block 4 Certifications, Item 11-CIPA Compliance, applicants should exercise additional care in checking the correct box. If the Form 486 being submitted is only for basic telephone,

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long distance, or cellular services' funding requests, "c." may be checked. Applicants must ensure and UEN must affirm that when E-rate funding is obtained for any services other than basic telephone, CIPA compliance either is in place or is in the process of being put into place. Presuming this, on the Form 486 submitted by applicants in Utah, Item 11"a." must be checked unless your entity is still within the first year of program participation and if so, Item 11"b." should be checked. Many of you may recognize these certifications since UEN just completed our FCC Form 479-CIPA Certification collection campaign for 2009. Thanks to all who responded quickly to our documentation requests.

Be advised that USAC has indicated they are revising Form 486 Certification Review procedures, which may require documentation from applicants to further substantiate their compliance with CIPA. This may include proof you're filtering policy was subjected to a public hearing. For UEN filtering participants, public comment is obtained through UEN Steering Committee meetings. For individual schools and libraries, documentation of public hearing may come in the form of local board meeting minutes or records of PTA meeting discussions involving filtering policies. If you find yourself questioning whether you're able to provide such proof in the event USAC requests it, please contact Sabrina Scott or Melinda Brereton as soon as possible.

CIPA compliance requirements themselves are presumed to change soon, which leads us to the next major topic.

Public Law: 110-385

Broadband Data Improvement Act, Title II-Protecting Children in the 21st Century

Though no one is exactly sure yet how the new CIPA requirements will be applied in actual program rules, the language seems pretty clear about steps that should be taken by diligent administrators. E-rate applicants should expect the FCC to add new certification language to Forms 486 and 479 as well as potential additions to Technology Planning requirements (all speculation at this point still).

The new additional CIPA language reads –"as part of its Internet safety policy is educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response." should at least serve as a warning to prepare for additional requirements. Many have interpreted the new law in advance of actual guidance from the FCC so, while it's prudent to prepare, applicants shouldn't necessarily make any hasty procurement decisions yet.

UEN's free NetSafe Utah project—which includes online resources for teachers, parents and face-to-face training—is already in place at www.netsafeutah.org. This collaborative project has just received additional state and federal funding and will continue to be adapted to give Utah schools and communities access to best practices for Internet safety including options for meeting the new CIPA requirements.

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More CIPA Compliance

(Excerpts from E-rate Central's Newsletter July, 13, 2009)

USAC staff has indicated and experience supports that some applicants may be undergoing Selective Reviews that include a new "Pre-Commitment CIPA Review". It is obvious that CIPA compliance efforts have intensified at USAC, and these are likely based upon E-rate program auditors' reports.

Taken from E-rate Central's Newsletter of July 13, 2009:

"The history of CIPA compliance is an interesting one. In the beginning, the FCC seemed content to rely primarily on applicant self-certification. Paragraph 47 of the FCC's original CIPA Order (FCC 01-120) reads:

47. Moreover, we determine that schools and libraries have adequate incentives to comply with the requirements of the statute. Not only would failure to submit or comply with a certification requirement result in the loss of discounted services, but it could also engender concern among library patrons and parents of students at the school. We believe that schools and libraries will act appropriately in order to avoid such outcomes. Thus, it is reasonable to presume that an entity will comply with its certification, and therefore, we will rarely, if ever, be called upon to look beyond that certification. We therefore direct the Common Carrier Bureau, with input from SLD, where appropriate, to develop any necessary procedures to address those instances where an entity fails to comply with its certification *[emphasis added]*.

Until recently, even if USAC found CIPA violations, it was not clear what action, if any, it could take to deny funding or recover previously disbursed funds. But in a January 2009 letter to USAC — often referred to as the "Table C" letter — the FCC provided guidance on the recovery of funds for infractions of various E-rate rules, including CIPA (see http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-86A1.pdf). The FCC indicated that USAC should "generally" recover funds if an applicant did not comply with all CIPA requirements, but that "...certain situations may not warrant recovery." Specifically, the FCC noted that recovery might not be required in instances where "...although the applicant may not have been in technical compliance, there was substantial compliance with the spirit of the CIPA requirements."

Despite the "spirit" loophole, we believe that the FCC's "Table C" letter and audit findings about applicants' failure to document compliance have spurred a more intensive USAC effort on CIPA compliance. Although we believe that most applicants filter their Internet and have an Internet Safety Policy, it has become more important to focus on the details of CIPA compliance, including documentation. In particular:

1. It is not enough to be able to demonstrate that Internet services are being filtered today. Increasingly, particularly in audits, applicants are being asked to prove

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- that they were filtering during earlier funding years. Documentation might include historic filtering logs or paid invoices for filtering equipment or services. Copies of such documents should be collected and retained in applicant E-rate files while they are still available.
2. An Internet Safety Policy must address the following five areas — not all of which are generally included in student Acceptable Use Policies:
 - a. Access by minors to inappropriate matter on the Internet and World Wide Web
 - b. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications
 - c. Unauthorized access including "hacking" and other unlawful activities by minors online
 - d. Unauthorized disclosure, use, and dissemination of personal information regarding minors
 - e. Measures designed to restrict minors' access to materials harmful to minors

These issues are discussed in more detail in our CIPA Policy Primer (see http://e-ratecentral.com/CIPA/cipa_policy_primer.pdf).

3. Prior to adoption, CIPA requires that “reasonable public notice” and “at least one public hearing or meeting” be held to address the proposed Internet Safety Policy. Recent experience indicates that compliance with this requirement may be difficult to document, particularly if the policy was adopted in the early days of CIPA (2001). Although we would argue that the FCC’s record retention rules did not take effect until October 2004, USAC is taking the position that an applicant requesting funding in later years must be able to prove not only that it has an Internet Safety Policy, but be able to document that it had been adopted after proper public notice and hearing — whenever that was.

If early adoption cannot be documented (e.g., with board minutes) — and now is the time to check — we recommend that the Internet Safety Policy be updated and properly re-adopted. To demonstrate at least the spirit of compliance during the early years, documentation of the adoption of the new Internet Safety Policy should clearly indicate that it is an update of an earlier policy.”

Important Dates & Deadlines!

June 30, 2009 – The last day of Funding Year 2008 to receive recurring services. For many, now is the time to assemble all payment information for eligible services made during the past year, in order to prepare FCC Form 472 (the “BEAR” form for reimbursements of actual expenses). The FCC Form 472 may be submitted by applicants on paper or online at USAC’s [“Apply Online”](#) web page. Applicants are encouraged to submit Forms 472 as soon as possible to avoid last minute delays near the 472 deadline. Delays may result in a missed deadline, which means a great deal of wasted time, effort, and money.

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July 1, 2009 – The very first day of funding year 2009. Also, the very first day that all users of Internet (funded with E-rate, which means all public schools and many libraries) are required to have approved Technology Plans in place. UEN has been working closely with USOE and Utah State Library to insure all applicants can document technology planning compliance. (Also true with regard to the previous topic concerning CIPA.)

September 30, 2009 – Non-Recurring Service Delivery End Date: September 30th, is typically the service delivery deadline for funding year 2008 non-recurring services (e.g., equipment installation or construction) which were funded before March 1, 2009 — unless the deadline has been automatically extended by a SPIN Change or Service Substitution approval. The same deadline may apply to non-recurring services with extended deadlines funded in previous years. To see if the service delivery deadline of any specific FRN has been extended, check the SLD's "[FRN Extension Status](#)" table. If funding year 2008 equipment delivery or work will not be completed by September 30, 2009, requests for an "Implementation Deadline Extension" must be submitted online before September 30th, via the "[Submit a Question](#)" link on the USAC-SLD home page. Contact us at UEN if you desire assistance with this.

October 28, 2009 – For most, this is the last date to invoice USAC (via Form 472 – BEAR or 474 - SPI) for funding year 2008 recurring services ending June 30, 2009.

Funding Year 2009

October 29, 2009 – For Utah applicants funded prior to July 1, 2009, this date is your deadline to submit Form 486 to USAC without penalty. *Important – You must have an approved Technology Plan before you can certify Form 486 for non-basic services.* (See additional information below under [Technology Plans](#).) For all others still awaiting Funding Commitments, the Form 486 deadline will always be 120 days from the date of the Funding Commitment Decision Letter, when it finally arrives.

The quickest way to determine whether you have outstanding Funding Commitments is to check the data that USAC has on record via the "[Data Retrieval Tool](#)" on the USAC web site. This tool is listed under "Search Tools" from their main web page. Data may be downloaded according to a wide variety of search criteria.

Funding Year 2010

USAC E-rate Fall Training Sessions

USAC has scheduled training sessions in seven locations around the country this year, beginning on September 22, 2009 in Washington, D.C. and ending October 15, 2009 in Portland, OR. For more info please visit the [USAC training registration web site](#).

October, 2009 – The FCC should approve the updated Eligible Services List for 2010, currently out for public comment. Forms 470 should be posted immediately afterward (if you were waiting on something new to be added to the list). If you're not seeking new services or if you plan on simply replicating last year's filing (you're not seeking new

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services), you should post your 2010 Form 470 as soon as possible at the USAC [“Apply Online”](#) web site. Before posting a Form 470 for 2010 you must have a written technology plan covering the services you seek and the funding year for which you’ll seek discounts. Also see below under Technology Plans.

October 31, 2009 – This date is the last date that 2010 enrollment and Free and Reduced Lunch survey data is gathered by the Child Nutrition Program at USOE. If you have not reported enrollment and income eligibility data to USOE for any reason (and we know there are many), please collect and provide this data (total students enrolled and total students eligible for NSLP) to UEN during the month of October. You may forward this data via email or fax to Melinda Brereton, UEN E-rate Administrator at mbrereton@media.utah.edu or Fax-801-581-8904.

November 15, 2008 – USAC should announce the opening date of the 2010 Form 471 filing window. It is still expected that the window will open on or about this date.

February 15, 2009 – This is currently the best guess for the closing date for the 2010 Form 471 filing window. If so, January 12, 2010 will be the last possible date to file a Form 470 in time to still submit 2010 funding requests “In-Window”.

Technology Plans Obtaining E-rate for Non-Recurring Expenses & Bandwidth Improvement Projects!

Published audit findings highlight the increased scrutiny now being given to Technology Planning requirements and compliance by USAC and auditors.

A Technology Plan must:

1. Be created before the Form 470 is submitted;
2. Cover all 12 months of the funding year and all services beyond basic telephone service for which the applicant will seek E-rate discounts;
3. Contain the [five required elements](#); and
4. Be approved by a USAC-certified Technology Plan Approver (“TPA”) prior to service start.

For the purpose of filing and certifying Form 470 for 2010 (#1 above), we recommend referring to your approved technology plan for the current funding year (if one already exists). Prior to submitting Form 471, it should be reviewed and updated (and this action also documented). USAC insists on a three year maximum effective period for Tech Plans. We recommend making and documenting annual updates to your plan.

Applicant Technology Plans must be approved by the USAC “certified approver” prior to service start. UEN works closely with USOE in maintaining technology plans and

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documenting their approval for consortium members. If you have any questions about creating, updating, or approval of your technology plan, please contact one of UEN's E-rate staff for additional assistance. UEN maintains copies of Technology Plan approval letters from the "USAC Certified Technology Plan Approver" for all consortium members.

Newly created technology plans for schools or Head Starts should be forwarded to Rick Gaisford at USOE as soon as possible for Funding Year 2010. Do not submit a Form 486 for 2009 unless you possess a certification that your Technology Plan has been approved.

Technology Plan approval letters for funding year 2009 have been provided by USOE to those with approved plans. If you find yours is missing, contact UEN for a copy.

Contact us!

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