

E-Rate Central News for the Week of March 9, 2020

Please see the attached newsletter for articles on:

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Funding Status – FY 2019 and FY 2020

FY 2019:

USAC released Wave 49 for FY 2019 on Thursday, March 5th. Funding totaled \$2.26 million, none for Nevada. Cumulative commitments through March 5th are \$2.21 billion including \$9.8 million for Nevada.

FY 2020:

The Form 471 application window for FY 2020 opened on January 15th and will close at 11:59 p.m. EDT on Wednesday, March 25th. PIA reviews are currently underway. As of last Friday, over 4,100 applications had already been designated as “Wave Ready.”

Timely and Late-Filed Form 470s for FY 2020

Because Form 470s must be posted for 28 days, the last day to file a valid Form 470 for FY 2020 was Wednesday, February 26, 2020. Twenty-eight days from that date will be March 25th, the filing deadline for Form 471 applications.

Applicants who missed the Form 470 deadline may have a real problem. The following alternatives can be considered:

1. Applicants with services being provided under a multi-year contract, executed under a valid Form 470 for an earlier funding year and extending through FY 2020, can file a Form 471 for those services citing the earlier Form 470.

2. Funding requests for high speed and low cost “business-class” Internet access services do not require an establishing Form 470. This exemption is strictly limited to services that “cost \$3,600 or less annually per entity (school or library), including any one-time costs such as installation; provide bandwidth speeds of at least 100 Mbps downstream and 10 Mbps upstream; and provide basic conduit access to the Internet at those required minimum speeds.”
3. Educational service agencies or other consortia that have filed Form 470s (and plan to file Form 471s) may offer services to their members on a consortium basis.
4. Some states (and certain regional bidding cooperatives) provide master contracts for E-rate eligible services. These contracts are valid for E-rate purposes and can be referenced in Form 471s if both of the following conditions are met:
 - a. The state or cooperative filed a valid Form 470 for the service; and
 - b. The contract was competitively bid, meaning that, at least on a regional basis, there was a single winner. If the contract involves a multi-vendor award, the Form 470 may still be cited on a Form 471, but only if the applicant conducts a “mini-bid” among **all** vendors on the multiple award schedule.
5. As a last resort, an applicant can file a late Form 470 in the hope that:
 - a. Major winter storms or SLD system problems lead to a last-minute extension of the application window; or
 - b. Upon request, the FCC may waive the Form 471 application deadline. In past years, the FCC has shown some flexibility for Form 471s filed within 14 days of the close of the window (or further if delayed by extraordinary circumstances). To fall within the two-week Form 471 “forgiveness period”, an associated Form 470 would have to be filed by this coming Wednesday, March 11th.

Simplified Category 2 Budget Templates

As discussed in our [newsletter of March 2nd](#), USAC has released a new FY 2020 Category 2 Budget Tool to provide prediscount budget data. Unlike the earlier budget tool, which USAC still supports but which covers funding only through FY 2019, the new tool includes the FY 2020 budget factors and accounts for pending Category 2 requests. The new tool appears to generate accurate data as long as EPC entity profiles are current.¹

¹ Many libraries’ EPC profiles are incomplete either because their square-foot area fields are blank and/or their locale codes are shown as “999” (an invalid default number) or “Not Found.” In these cases, the new FY 2020 budget tool and the older FY 2019 budget may show no result or the wrong budget as indicated below.

Sq.Ft. Area	Locale Code	FY 2020 Tool	FY 2019 Tool
Blank	"Not Found"	No Result	Rural Minimum
Blank	"999"	No Result	No Result
Shown	"Not Found"	No Result	Rural Budget
Shown	"999"	Rural Budget	Rural Budget

The new tool's results, however, are presented in the form of a fourteen column Excel spreadsheet. All but two of the columns are locked, and several of the locked columns include unnecessary static data. As a result, users cannot add totals to budget columns nor print easily readable reports. As shown below, the standard district report is very hard to read.

Entity Number	FY2020 Student Count or Square Footage	Entity Name	Student Count or Square Footage	FY2019 Multiplier (b)	FY2020 Inflation Factor (c)	FY2020 Bridge Factor (d)	FY2020 Multiplier (b+c+d) = (e)	FY2020 C2 Budget (e * a) = (f)	Total Approved Pre-Discount	Total Pending Pre-Discount	FY2020 Remaining Budget (f-g)	Projected FY2020 C2 Budget	Projected FY2020 Remaining Budget
299	58,493.37		299	1.00	1.00	1.00	1.00	58,493.37	22,256.74	-	36,236.63	58,493.37	22,256.74
271	53,015.73		271	1.00	1.00	1.00	1.00	53,015.73	14,724.00	39,311.50	18,291.73	53,015.73	14,724.00
860	168,241.80		860	1.00	1.00	1.00	1.00	168,241.80	34,811.37	-	133,430.43	168,241.80	34,811.37
267	52,233.21		267	1.00	1.00	1.00	1.00	52,233.21	14,724.01	-	37,509.20	52,233.21	14,724.01
388	75,904.44		388	1.00	1.00	1.00	1.00	75,904.44	17,234.93	-	58,669.51	75,904.44	17,234.93
221	43,234.23		221	1.00	1.00	1.00	1.00	43,234.23	14,724.01	-	28,510.22	43,234.23	14,724.01
323	63,188.49		323	1.00	1.00	1.00	1.00	63,188.49	22,256.74	31,815.50	40,931.75	63,188.49	22,256.74
328	64,166.64		328	1.00	1.00	1.00	1.00	64,166.64	24,767.66	-	39,398.98	64,166.64	24,767.66
2,082	407,301.66		2,082	1.00	1.00	1.00	1.00	407,301.66	300,816.62	27,080.40	106,485.04	407,301.66	300,816.62
328	64,166.64		328	1.00	1.00	1.00	1.00	64,166.64	24,767.66	-	39,398.98	64,166.64	24,767.66
283	55,363.29		283	1.00	1.00	1.00	1.00	55,363.29	24,767.64	-	30,595.65	55,363.29	24,767.64
268	52,428.84		268	1.00	1.00	1.00	1.00	52,428.84	14,723.96	32,617.75	37,704.88	52,428.84	14,723.96
94	18,389.22		94	1.00	1.00	1.00	1.00	18,389.22	12,746.19	-	5,643.03	18,389.22	12,746.19
572	111,900.36		572	1.00	1.00	1.00	1.00	111,900.36	34,278.81	-	77,621.55	111,900.36	34,278.81
Totals	6,584		Totals					1,288,027.92	577,600.34	130,825.15	710,427.58	1,288,027.92	577,600.34

To help alleviate this problem, we have created two simplified [Category 2 templates](#). By copying and pasting data from USAC's new spreadsheet into one of the templates, a user can create a condensed and fully unlocked Category 2 budget spreadsheet.² This permits the user to add column totals and print a more readable report such as the revised version shown below.

Entity Number	Entity Name	Student Count or Square Footage (a)	FY2020 C2 Budget (a x e) = (f)	Total Approved Pre-Discount (g)	Total Pending Pre-Discount	FY2020 Remaining Budget (f-g)
299		299	58,493.37	22,256.74	-	36,236.63
271		271	53,015.73	14,724.00	39,311.50	38,291.73
860		860	168,241.80	34,811.37	-	133,430.43
267		267	52,233.21	14,724.01	-	37,509.20
388		388	75,904.44	17,234.93	-	58,669.51
221		221	43,234.23	14,724.01	-	28,510.22
323		323	63,188.49	22,256.74	31,815.50	40,931.75
328		328	64,166.64	24,767.66	-	39,398.98
2,082		2,082	407,301.66	300,816.62	27,080.40	106,485.04
328		328	64,166.64	24,767.66	-	39,398.98
283		283	55,363.29	24,767.64	-	30,595.65
268		268	52,428.84	14,723.96	32,617.75	37,704.88
94		94	18,389.22	12,746.19	-	5,643.03
572		572	111,900.36	34,278.81	-	77,621.55
Totals		Totals	6,584	1,288,027.92	577,600.34	710,427.58

Additional information on [Category 2 Budgets for FY 2020](#) and a link for downloading our [Category 2 Templates](#) can be found in the [Resources](#) section of the E-Rate Central website.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

² When copying data into the template, use the "Paste Value" function. Note that the templates include hidden columns matching the columns in the USAC tool. Entity Names in the USAC tool are in two merged columns (D-E) and must be cut and pasted separately.

- March 12 USAC “open hour” [webinar](#) to demonstrate the new Category Two Budget Tool.
- March 13 Form 486 deadline for FY 2019 funding committed in Wave 33. More generally, the Form 486 deadline is 120 days from the FCDL date, or the service start date (typically July 1st), whichever is later. Other upcoming Form 486 deadlines are:
- | | |
|---------|------------|
| Wave 34 | 03/20/2020 |
| Wave 35 | 03/26/2020 |
- March 16 Due date for submitting reply comments on the FCC’s Notice of Proposed Rulemaking (“NPRM”) regarding new rules on suspensions and debarments ([FCC 19-120](#)). See our [newsletter of February 17th](#) for a summary of initial comments.
- March 25** Close of the Form 471 application window for FY 2020 at 11:59 p.m. EDT.

FCC Decision Watch:

The FCC released a decision ([DA 20-237](#)) addressing a series of Requests for Review and/or Waiver dealing with twelve USAC denials of operational SPIN changes (many tracing back to FY 2011). The FCC approved five requests and denied seven.

Under the E-rate [rules governing operational SPIN changes](#), the two most important criteria for permitting a change are that:

1. There is a legitimate reason to change the provider (e.g., a breach of contract or an inability of the service provider to perform the requested services; and
2. The newly selected service provider had received the next highest score in the original bid evaluation process.

Based on last week’s FCC’s decision, we draw the following conclusions:

1. If a newly designated vendor cannot provide service as of the start of the funding year, an applicant may continue to receive service from the incumbent vendor even if the incumbent was not the second most cost-effective bidder.
2. Dissatisfaction with the quality of service provided can be deemed equivalent to an “inability” to perform. Dissatisfaction with a vendor’s “customer service,” as opposed to the inability to provide the service itself, however, does not justify a SPIN change.
3. The need to change a service provider because the applicant’s first choice was not compliant with its state’s bidding requirements is not an acceptable reason for a SPIN change.
4. The opportunity to switch to a lower-priced vendor does not constitute a valid reason for a SPIN change.
5. An operational SPIN change cannot be used to obtain service from a new provider to serve a location for which the applicant had not sought competitive bids.

Reply Comments re. National Security Threats:

The FCC received a dozen reply comments last week to its Notice of Proposed Rulemaking (“NPRM”) regarding national security threats ([FCC 19-121](#)). As was the case with the initial comments (see our [newsletter of February 10th](#)), most of the responses addressed the need for the removal and replacement of Huawei and ZTE equipment — and the funding thereof — by Eligible Telecommunications Carriers (“ETCs”).

E-rate focused reply comments on the proceeding were submitted by the [Consortium for School Networking](#) (“CoSN”) and the State Educational Technology Directors Association (“SETDA”) and by the [E-Rate Management Professionals Association](#) (“E-mpa[®]”). Both sets of comments agreed with the FCC’s proposal that the removal of prohibited equipment by E-rate applicants should be encouraged, but not be mandated, and that funding should be provided if such equipment is replaced.

Separately, the FCC opened a reporting portal (see Public Notice [DA 20-166](#)) within which ETCs must report the extent to which their networks contain or use prohibited equipment or services provided by either Huawei or ZTE and the projected costs of removing and replacing such equipment. Other Universal Service Fund (“USF”) recipients, including E-rate applicants, may participate in the information collection process on a voluntary basis.

Benton Institute Supports E-Rate Funding for Internet to Lower-Income Homes:

The Benton Institute released a short article last week entitled “[From Places to People — Connecting Individuals to Community Anchor Institutions](#).” The article highlights programs by some libraries and schools to lend WiFi hotspots to households without Internet access. Such programs align perfectly with the recently passed House legislation “Closing the Homework Gap Through Mobile Hotspots Act,” H.R. 5243, discussed in last week’s newsletter.

The Benton article stresses the importance of providing Internet access to all students and states explicitly that “**Congress and the FCC should expand E-Rate to provide wireless access to students of lower-income families who do not have broadband at home**” [Benton’s own emphasis].

USAC Clarification on PIA Discount Rate Inquiries:

Confusion abounded early last week after applicants began reporting PIA inquiries insisting that discount rates must be supported by data for the 2020-2021 school year — obviously difficult to obtain before next year’s school year has even started — and that “new rules” and “system resets” precluded the use of 2019 enrollment and NSLP data. USAC, to its credit, quickly cleared up any misunderstanding that may have arisen among PIA reviewers and confirmed that 2019-2020 NSLP data is indeed valid.

USAC News Brief Dated March 6 – Retaining Competitive Bidding Documentation

[USAC’s Schools and Libraries News Brief of March 6, 2020](#), reviews the need to retain all competitive bidding documentation including:

- The Form 470(s) and all associated RFP documents.

- Questions from potential bidders and your answers.
- Copies of winning **and losing** bids (including disqualified bids).
- Bid evaluation matrix or matrices and any supporting documentation.
- Precise citation to any state or local rule restricting the public release of bidding information.
- Bid award letters and/or resulting contracts.

Last Friday's News Brief also covered:

- This week's upcoming webinar on USAC's new Category Two Budget Tool (see above).
- A description of the [training videos](#) on USAC's Open Data platform.
- Two minor EPC updates.

Newsletter information and disclaimer: This newsletter may contain unofficial information on prospective E-rate developments and/or may reflect E-Rate Central's own interpretations of E-rate practices and regulations. Such information is provided for planning and guidance purposes only. It is not meant, in any way, to supplant official announcements and instructions provided by the SLD, FCC, or OSIT.

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