Nevada E-Rate Weekly News	Weekly E-Rate Newsletter Vol. 2, No. 26 June 25, 2018

E-Rate Central News for the Week of June 25, 2018

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Funding Status – FY 2018

FY 2018:

USAC did not issue a new funding wave for FY 2018 last week and promised an update in its next News Brief. (USAC did, however, issue a large post-commitment wave for FY 2016 on Saturday, June 23rd.) Cumulative funding as of Wave 10 remains $1.18 billion, including $2.51 million for Nevada.

Uncertainties for FY 2019

Effective July 1st, EPC should be updated to permit filings of Form 470s for FY 2019 (see below). Applicants undertaking competitive bidding activities for Category 1 special construction and/or any Category 2 service in FY 2019 should be aware of two possible pitfalls.

Category 1 Special Construction:

Prior to the *Second E-rate Modernization Order* (FCC 14-189), an applicant could not receive E-rate discounts on all the costs of large Priority 1 network installations in a single year. The prohibition stemmed from the FCC's *Brooklyn Public Library Decision* (FCC 00-354) which was designed to prevent funding demand spikes in an era of limited E-rate funding. For E-rate purposes, the resulting rules required that installation costs in excess of $500,000 be amortized over a period of at least three years. In 2014, with additional E-rate funding and an increased focus on broadband services, the FCC suspended the amortization requirement for four years, FY 2015 to FY 2018. Specifically, the FCC Order stated:

> We therefore direct USAC to suspend application of its multi-year amortization policy for funding years 2015 through 2018 and to allow applicants to seek support for upfront or non-recurring charges without imposing any amortization requirements. In evaluating this USAC requirement, we considered a permanent end to the requirement instead of merely suspending its application. However, we are cognizant of the interest reflected in the Brooklyn Order of balancing the immediate needs of some E-rate applicants against the needs of all of the applicants. We therefore adopt the additional safeguard of suspending rather than eliminating USAC's amortization policy for the limited duration of the next four funding years. We expect that USAC will keep the Bureau apprised of how many and to what extent applicants utilize this suspension for the deployment of infrastructure. We also direct the Bureau to revise our data collection to collect such information beginning in funding year 2016. We believe this balanced approach will provide us with sufficient data to determine the best course forward for subsequent funding years.

Unless the FCC proactively extends the multi-year amortization suspension, or eliminates the requirement altogether, the costs of large special construction projects must apparently be amortized for E-rate purposes as of FY 2019. This may be fine for projects designed to be phased-in over multiple years, which would require multi-year applications anyway. But it may be problematic for large projects otherwise expected to be completed — and paid for — in a single year.

Applicants in this situation must be careful to address amortized E-rate discounts in their funding plans and in their network construction contracts. Special care should be taken by applicants planning to use the extra E-rate discounts available under the state matching provision.

Category 2 Budgets:

The current five-year Category 2 budget process was first initiated on a two-year trial basis in the FCC's *First E-rate Modernization Order* (FCC 14-99). In the *Second E-rate Modernization Order* (FCC 14-189), the FCC sought to ensure "certainty" of funding through 2019 by extending the trial to five years. In 2017, the FCC issued a Public Notice (DA 17-921) seeking comments on the level, structure, and application processing of Category 2 budgets for FY 2020 forward.

What is crystal clear at this stage is that applicants first funded for Category 2 in FY 2015 have until FY 2019 to fully use their budgeted funding. Because these budgets are indexed to inflation, this means that applicants funded at the maximum level in FY 2015 will have an incremental budget available (perhaps $8-9/student prediscount) through next year. Beyond FY 2019, these applicants must await the FCC's decision (proactive or inactive) on future Category 2 funding.

What is not clear at this point is the status of the Category 2 budgets for applicants first funded in FY 2016 or later. Does a "five-year" budget apply on a rolling five-year basis from the first year of funding, or does "five-year" simply refer to the current budgeting mechanism expiring after FY 2019? Somewhat surprisingly this late in the game, applicants do not know the answer to this basic and immediate question:

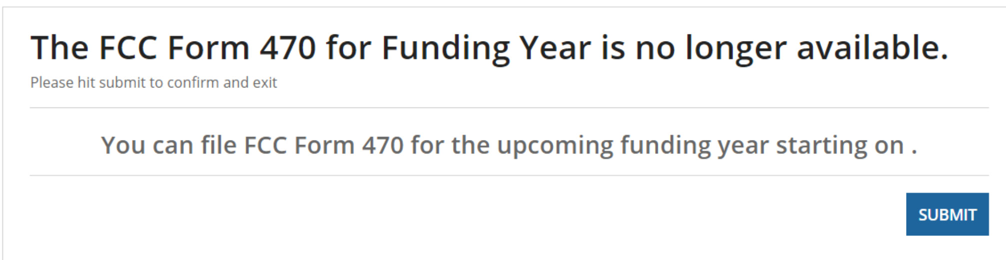
If an applicant was first funded for Category 2 in FY 2016, does its "five-year" budget extend through FY 2020 or only though FY 2019?

Until recently, we had been assuming that "five-year" budgets worked on a rolling five-year basis, but have become concerned by USAC's lack of guidance on this issue. Absent FCC or USAC clarification, or a new FCC order to the contrary, the safest course of action may be to address Category 2 planning for FY 2019 as if all current budgets are expiring.

Updates on USAC's E-Rate Productivity Center and Legacy System

Updated Form 470 for FY 2019:

Applicants ready to begin their competitive bidding process for FY 2019 should be able to file Form 470s as of July 1st. Users attempting to file a new Form 470 now see the following cryptic message:



What the message means to say is that "The FCC Form 470 for Funding Year 2018 is no longer available. You can file an FCC Form 470 for the upcoming funding year [i.e. FY 2019] starting on July 1, 2018."

The most significant change we're expecting to the Form 470 for FY 2019 is a revision to the Category 1 drop-down menu options and a more complete explanation of those options. This was a major source of confusion for FY 2018 when USAC changed the menu options in August to require the selection of "Leased Lit Fiber" for any fiber services including — and not at all intuitive — those incorporating bundled Internet.

In a letter to USAC on May 1st, the FCC directed USAC to revise the wording of the options to clarify which options include only "non-fiber services" and those that include "fiber services." Additionally, the FCC directed USAC "to take whatever measures necessary to ensure that applicants fully understand those options. This guidance is essential to assisting applicants in complying with the Commission's competitive bidding rules in FY 2019 and beyond."

We fully expect that information on the new menu options, together with the associated guidance material, will be available next week on or before July 1st.

Invoice Payment Recalls:

[On hold at Julie's request pending USAC's review of the problems found]

E-Rate Updates and Reminders

Upcoming 2018 E-Rate Dates:

June 29	FY 2017 Form 486 deadline for funding committed in Wave 43. Other upcoming Form 486 deadlines include: Wave 44 07/02/2018 (hurricane relief wave) Wave 45 07/06/2018 Wave 46 07/13/2018 Wave 47 07/12/2018 Applicants missing these (or earlier) deadlines should watch carefully for "Form 486 Urgent Reminder Letters" in EPC. The Reminders will afford applicants with 15-day extensions to submit their Form 486s without penalty. The first Form 486 deadline for FY 2018 is not until October 29, 2018.
June 30	Last day to file a special construction implementation deadline extension request for FY 2017.
July 2	Reply comment deadline on the FCC's Notice of Proposed Rulemaking ("NPRM") on *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs* (see FCC 18-42).
July 23	Deadline for submitting Form 470/471 comments (see Federal Register notice).

Note: The American Library Association ("ALA"), in cooperation with the Institute of Museum and Library Services ("IMLS"), has released an updated version of its one-page table of major E-rate funding "Dates to Remember" for FY 2017, FY 2018, and FY 2019.

Proposed Eligible Services List for FY 2019:

[Expected soon. Was issued June 21st last year.]

2018 E-Rate Applicant Survey:

In our newsletter of April 30th, we encouraged applicants to participate in Funds For Learning's 2018 annual E-rate applicant survey. The results of that survey were shared with the FCC earlier this month. Here are some of the key findings:

- 88% of the respondents indicated that E-rate was vital to achieving their Internet connectivity goals by providing more affordable Internet (82%), faster speeds (80%), and/or to more students or patrons (78%).

- The number of applicants reporting difficulties with EPC fell below 50% this year, and well over 90% described this year's EPC experience as the same or better than last year's.
- 83% of the school applicants and 62% of the library applicants reported Category 2 funding requirements exceeding the current budget constraints. 88% supported a change to applicant-level, rather than the current building-by-building, budgets.
- 61% of the applicants indicated that they would seek E-rate discounts on dual Internet connections, if allowed, to support load balancing and increased reliability. 82% considered insufficient Internet access to the home as a significant community issue.
- Almost one third of the applicants reported delays in reimbursements of more than four weeks.

USAC News Brief Dated June 22 – Returning Funds to USAC

USAC's Schools and Libraries News Brief of June 22, 2018, reviews the process for returning funds to USAC either on a voluntary basis or, more likely, as the result of a commitment adjustment decision ("COMAD") and subsequent demand for payment. Funds being returned must be transmitted electronically.

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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Nevada Governor's Office of Science, Innovation and Technology