

## E-Rate Central News for the Week of July 15, 2019

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### Funding Status – FY 2019

USAC released Wave 12 for FY 2019 on Thursday, July 11<sup>th</sup>. Funding totaled \$38.9 million including \$1.5 thousand for Nevada. Cumulative commitments through Wave 12 are \$1.05 billion including \$4.84 million for Nevada.

### FCC Issues Category 2 NPRM

Last Tuesday, the FCC released its much-anticipated Notice of Proposed Rulemaking (“NPRM”) on the future of Category 2 funding for FY 2020 and beyond ([FCC 19-58](#)). In line with the FCC staff’s report ([DA 19-71](#)) issued last February (see our [newsletter of February 18<sup>th</sup>](#)), the NPRM concludes that Category 2 should continue on a budgeted basis as has been the case since FY 2015. Absent FCC action, Category 2 funding reverts to the awkward pre-2015 “two-in-five” process. Issuance of the NPRM provides immediate assurance of funding for applicants planning Category 2 projects for FY 2020, but leaves open a host of details on the budgeting process now subject to NPRM comments and ultimate FCC resolution.

Ideally, we would have liked this NPRM to have been issued six months ago with the expectation that all the details would now be settled. Nevertheless, the most important, immediate, and positive takeaways from the NPRM — to which we assign a 99% confidence level — are:

1. Applicants who began using their 5-year budgets in FY 2015 (whose budgets end in FY 2019), as well as those applicants who had not used any Category 2 funding, will at a minimum have access to new funding in FY 2020.
2. Applicants who began using their 5-year budgets in subsequent funding years (i.e., FY 2016 – FY 2019) should, at a minimum, have access to whatever funding remains for FY 2020.
3. Managed Internal Broadband Services (“MIBS”), Basic Maintenance on Internal Connections (“BMIC”), and caching servers will remain eligible as Category 2.

Applicants trying to optimize their Category 2 funding for FY 2020, however, will have to wait for the details to be decided. The key questions yet to be answered include:

1. Should the minimum pre-discount budget for small schools and libraries be increased? Instead of the current minimum (\$9,200 + inflation), should the floor be higher (e.g., \$25,000)?
2. Should the pre-discount per student factor for schools or the per square-foot factors for libraries be increased to account for more realistic WiFi costs? The FCC believes that current per student factor (\$150 + inflation) is sufficient for most schools but is asking whether a higher figure is appropriate for certain rural and/or tribal areas. The FCC is also asking whether the higher square-foot factor (\$5.00 + inflation), currently used for certain urban libraries, should be used for all libraries.
3. Should budgets be administered on a districtwide (or library systemwide) basis? If so, how should non-traditional “districts” (e.g., managed groups of charter or independent schools) be fairly treated? Districtwide budgeting has been requested by many parties to provide greater flexibility and simplicity. The NPRM poses a number of related questions regarding charter schools subject to district administration, groups of private or charter schools applying as E-rate “districts,” and changes in district structure within a budget period. Similar questions related to library systems are posed.
4. Should 5-year budgets continue to “roll,” or should there be fixed 5-year periods for everyone (e.g., FY 2020-2024, FY 2025-2029, etc.)? Should all budgets be reset as of FY 2020? The FCC posits that fixed budget periods would be simpler to administer but is concerned about possible spikes in funding demand due to wasteful spending at the end of fixed cycles.
5. What other “transition” rules should be considered for those applicants operating under existing 5-year budgets?

In determining how Category 2 budgets will be administered for FY 2020, one critical issue not addressed in the NPRM is how long it will take for USAC to implement any IT-supported system changes. If permanent Category 2 budget rules are not adopted until late in 2019, as is suggested by the comment cycle, modified or transitional rules may be required for FY 2020.

Comments on the NPRM will be due 30 days after its publication in the *Federal Register* (expected late this month). Reply comments will be due 15 days thereafter. This comment cycle will likely coincide roughly with that of the FCC’s proposed FY 2020 Eligible Services List (“ESL”).<sup>1</sup> Fortunately, this may allow the FCC to consider the Category 2 eligibility aspects of the NPRM in concert with the full ESL.

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<sup>1</sup> Last year, the proposed ESL for FY 2019 was released July 30, 2018.

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

### *Reissued BEAR Notification Letters:*

As noted in our [newsletter of June 3<sup>rd</sup>](#), numerous applicants indicated that they had not been receiving BEAR Notification Letters following the processing of their invoices. Reports of missing BEAR notices traced back at least as far as January 2019, and possibly further.

Failures to receive BEAR decision notices are particularly problematic when payments are denied and, thereafter, when applicants subsequently find that it is too late to resubmit the BEARs before their invoice deadlines or, alternatively, to appeal within 60 days. USAC — to its credit — investigated, confirmed, and proactively responded by mailing and/or re-mailing all BEAR Notification Letters as of January to both applicants and service providers. As indicated in the cover page shown below, the reissued BEAR Notification Letters are dated July 8<sup>th</sup>, giving the applicants 60 days (until Friday, September 6<sup>th</sup>) to appeal any adverse invoicing decisions.

Dear Program Participant -

We have recently become aware that some applicants who filed BEAR Forms in calendar 2019 have never received their BEAR Notification Letters. The service providers featured on the funding requests in those BEAR Forms may have also not received their copies of these letters.

Consequently, we are reprinting and mailing BEAR Notification Letters to all applicants who submitted BEAR Forms that we processed in calendar 2019, and also reprinting and mailing copies of those letters to the associated service providers.

We realize that some of you have in fact received your letters, and that others have requested and received copies of your letters from our Client Service Bureau. Although the information in those letters was correct, we want to be sure that we have issued letters to all applicants and service providers who may not have received them.

For the purposes of establishing the appeal deadline for the USAC decisions in these letters, the July 8, 2019 date on the attached letter starts the 60-day appeal clock and applies to the calculation of any other program deadlines that depend on this date, even if you have already received a copy of this letter with a different date.

We apologize for any inconvenience.

Schools and Libraries Division  
Universal Service Administrative Company

## E-Rate Updates and Reminders

### *Upcoming E-Rate Dates:*

July 15                      Form 486 deadline for FY 2018 funding committed in Wave 49. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (typically July 1<sup>st</sup>), whichever is later. Other upcoming Form 486 deadlines are:

Wave 50	07/22/2019
Wave 51	07/26/2019

Note 1: Applicants missing any Form 486 deadline should watch carefully for “Form 486 Urgent Reminder Letters” in their EPC News Feed. These Reminder Letters afford applicants 15-day extensions to submit their Form 486s without penalty.

Note 2: The first Form 486 deadline for FY 2019, covering funding committed in Waves 1-10, will be October 29, 2019.

- July 16                   Deadline for submitting reply comments to the FCC ([DA 19-493](#)) on a [petition](#) filed by three Texas carriers to restrict the use of E-rate funds to build fiber networks in areas where fiber networks already exist (see a summary of the initial comments above).
- July 29                   Extended deadline ([DA 19-628](#)) for submitting comments to the FCC's NPRM ([FCC 19-46](#)) seeking comment on establishing a cap on total funding of the Universal Service Fund ("USF") (see our newsletter of [June 3<sup>rd</sup>](#)). Reply comments are due August 26<sup>th</sup>.
- August 5-9              USAC is holding two [service provider training](#) sessions in Washington DC, one at the beginning of the week (August 5-6) and one at the end of the week (August 8-9). Each two-day session will begin with a half-day presentation for beginners and will include a second full day for everyone.
- September 16         See USAC's [2019 Training](#) webpage for a schedule of all USAC's 2019 fall  
– November 21       applicant and tribal training sessions.

### USAC News Brief Dated July 12 – Miscellaneous Updates

[USAC's Schools and Libraries News Brief of July 12, 2019](#), provides:

- An update on BEAR Notification Letters (discussed in more detail above);
- A reference to the FCC's NPRM on Category 2 budgets (discussed in more detail above);
- A few reminders on USAC's 2019 service provider and applicant training; and
- A plug for USAC's [Share Your E-rate Technical System Ideas](#) website.

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*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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