Nevada E-Rate Weekly News	Weekly E-Rate Newsletter Vol. 3, No. 31 August 5, 2019

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Funding Status – FY 2019

USAC released Wave 15 for FY 2019 on Thursday, August 1st. Funding totaled $69.9 million including $501.8 thousand for Nevada. Cumulative commitments through Wave 15 are $1.22 billion including $5.45 million for Nevada.

FCC Releases Draft ESL for FY 2020

The FCC released a draft of the Eligible Services List ("ESL") for FY 2020 (DA 19-738). Aside for one key disclaimer, the draft release is a non-event this year. What may change depends entirely on the outcome of the Category 2 Notice of Proposed Rulemaking (FCC 19-58) affecting the continued eligibility of caching servers, MIBS, and BMIC. The key paragraph in the draft ESL reads:

> Generally, we do not propose substantive changes from the FY2019 ESL. We note, however, that under the *2014 First E-Rate Order*, three Category Two services are currently eligible for support only through FY2019: managed internal broadband services, caching, and basic maintenance of internal connections. Therefore, if the Commission does not act before the adoption of the FY2020 ESL on its proposal in the recent *Category Two Notice of Proposed Rulemaking* to extend the eligibility of these services, then funding for managed internal broadband services, caching, and basic maintenance of internal connections will only be available to entities still operating under their five-year Category Two budget cycles in FY2020. Accordingly, the proposed FY2020 ESL contains language under the section titled "Eligibility Limitations for Category Two" that explains the conditional eligibility of these services.

Comments on the draft ESL are due September 3rd — coincidentally the same day as reply comments are due on the more important Category 2 NPRM. ESL reply comments are due September 18th.

SNAP Eligibility and E-Rate Discounts

The *New York Times* (and other news media) reported last week that "500,000 Children May Lose Free School Meals Under Tighter Access to Food Stamps." The report cited a proposed change in U.S Department of Agriculture ("USDA") rules recently posted in the *Federal Register* under which families eligible for the Temporary Assistance for Needy Families ("TANF") program would not also be categorically eligible for the Supplemental Nutrition Assistance Program ("SNAP"). The focus on student access to free lunches was triggered by a letter to the USDA from Congressman Robert Scott (D-VA), Chairman of the House Committee on Education and Labor, arguing that the discussion of the proposed rule, as posted, did not include the required Regulatory Impact Analysis regarding the rule's impact on the National School Lunch Program ("NSLP"). The letter referenced a phone briefing from the USDA's Food and Nutrition Service estimating that more than 500,000 students would lose their automatic eligibility for free meals. Any changes in NSLP eligibility will potentially affect E-rate discounts. But by how much?

The USDA proposal notes that some TANF benefits are non-cash and/or temporary. As such, these benefits may be made available to households that do not meet SNAP income or resource tests. At the present time, however, in an effort to limit state administrative expenses, many states are permitted to automatically qualify all TANF beneficiaries as being eligible for food stamps. SNAP eligibility is the primary determinant of a school's use of the Community Eligibility Program ("CEP") for NSLP purposes. CEP percentages, in turn, drive the E-rate discount levels of those schools. To the extent SNAP eligibility is reduced:

- Some schools — those whose percentages of directly certified students would fall under 40% — would no longer be eligible for CEP. This would mean a return to the more burdensome method of collecting NSLP applications (or doing surveys) to establish their NSLP percentages. This does not necessarily mean lower E-rate discounts — an estimated 93% of the 500,000 students would still be eligible for reduced-priced lunches — but it would certainly mean more work to justify these discounts.
- Other schools, while remaining within the CEP system, might see their 90% discounts reduced to 80% when their CEP authorizations are renewed (as is required every four years).

There are at least two sections in the USDA proposal that provide some basis for determining which applicants might be adversely affected and to what extent. The first point to note is that not all states and territories are categorically treating TANF eligibility as being SNAP eligible. If not, they would not be affected. The key paragraph on "state" eligibility indicates:

> Because State agencies do not verify resources for applicants that are currently considered categorically eligible per 5(j) of the Act, they would be required to make changes to their application process to assess the resources of those households' that would no longer be categorically eligible. Out of 53 State agencies, 43 State agencies have adopted expanded categorical eligibility policies: Therefore, only 10 States are currently collecting resource information as part of the SNAP eligibility determination process. The ten (10) State agencies that have not taken the option to expand categorical eligibility will be unaffected by this proposed rule; these States are currently conducting the information collection and imposing burden for States and SNAP applicant households regarding resource verification without OMB approval.

Although the proposal does not list the states, the USDA website does provide a list dated July 2019 of 42 Broad-Based Categorical Eligibility states and territories. Assuming this to be a more current list, then we can divide the states and territories as shown below. Applicants in the "Affected States and Territories" — including New Mexico— are those most likely to be impacted by the proposed rule change.

Affected States and Territories			Unaffected
Alabama	Iowa	North Carolina	Alaska
Arizona	Kentucky	North Dakota	American Samoa
California	Maine	Ohio	Arkansas
Colorado	Maryland	Oklahoma	Kansas
Connecticut	Massachusetts	Oregon	Louisiana
Delaware	Michigan	Pennsylvania	Mississippi
District of Columbia	Minnesota	Rhode Island	Missouri
Florida	Montana	South Carolina	Northern Mariana Islands
Georgia	Nebraska	Texas	Puerto Rico
Guam	Nevada	Vermont	South Dakota
Hawaii	New Hampshire	Virgin Islands	Tennessee
Idaho	New Jersey	Washington	Utah
Illinois	New Mexico	West Virginia	Virginia
Indiana	New York	Wisconsin	Wyoming

To estimate which applicants might be affected, and to what extent, requires a more detailed analysis. Broadly speaking, the proposal provides the following information.

> The Department estimates that approximately 9 percent of currently-participating SNAP households (an estimated 1.7 million households in FY 2020, containing 3.1 million individuals) will not otherwise meet SNAP's income and asset eligibility prerequisites under the proposed rule. These households are nearly evenly split between those that fail the Federal SNAP income test (4.9 percent) and those that fail the Federal resource test (4.1 percent). Collectively, these households receive about 5 percent of total SNAP benefits. However, households who would not meet the eligibility requirements due to the resource test account for 80 percent of the expected reduction in benefits. This is because they have lower incomes relative to households that fail the Federal income test, and thus receive larger monthly SNAP allotments.

In one statewide analysis we conducted, we estimated that the 9% change projected by USDA would mean that approximately 1% of the schools currently using CEP would no longer be eligible and that 3% of the schools, while still eligible for CEP, would experience an E-rate discount reduction of 10%. The statewide analysis was biased by a significantly large concentration of schools in one major urban city all with high CEP percentages unlikely to be affected by the change. Considering a smaller base of schools, excluding the large urban city schools, we estimated that 3% of the schools would lose CEP and 10% of the schools would see a discount rate reduction.

Individual applicants are likely to be affected in the following ways:

- An applicant currently with a directly certified percentage less than 44-45% would be at risk of losing its CEP status at its next CEP renewal point (1-3 years out).
- An applicant currently with a directly certified percentage of 47-52%, now with a 90% discount, would remain in CEP but would be at risk of dropping to an 80% discount at its next CEP renewal point.

At these marginal CEP levels, the USDA's proposed changes will be important to track. Comments on the proposed changes are currently due September 23rd (but may be delayed if Rep. Scott's concerns are addressed).

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

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.
August 9	Form 486 deadline for FY 2018 funding committed in Wave 53. 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 54 08/16/2019

	Wave 55	09/11/2019
	Wave 56	N/A (no commitments)

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.

August 16	Deadline for submitting initial comments to the FCC's Notice of Proposed Rulemaking ("NPRM") on the future of Category 2 funding for FY 2020 and beyond (FCC 19-58). (See our newsletter of July 15th.) Reply comments are due by September 3rd.
August 26	Reply comment deadline on the FCC's NPRM (FCC 19-46) regarding a possible cap on total funding of the Universal Service Fund ("USF".) (See our newsletter of June 3rd).
September 3	Deadline for submitting initial comments on the FCC's draft ESL for FY 2020 (DA 19-738) — see article above. Reply comments are due September 18th.
September 6	Deadline for submitting USAC invoice appeals related to reissued BEAR Notification Letters. (See our newsletter of July 15th.)
September 16 – November 21	See USAC's 2019 Training webpage for a schedule of all USAC 2019 fall applicant and tribal training sessions.
September 23	Deadline for submitting comments to the USDA's proposal to revise the categorical eligibility of families in the Supplemental Nutrition Assistance Program ("SNAP") (FNS-2018-0037). See article above for E-rate implications.

Comments on FCC's USF Cap NPRM:

Last Monday was the deadline 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") and or combining the funding caps for the E-rate and Rural Health Care programs (see our newsletter of June 3rd). The comments listed below are but a fraction of all the responses. It's been a long time since we've seen so many comments universally opposed to an FCC proposal. The major point made in most comments was that placing an overall cap on the USF would lead to competition between the four distinct programs and would create funding uncertainties to the detriment of each program.

American Library Association ("ALA")
Consortium for School Networking ("CoSN")
Council of Chief State School Officers ("CCSSO")
Council of the Great City Schools
CTIA – The Wireless Association
Education and Library Networks Coalition ("EdLiNC")

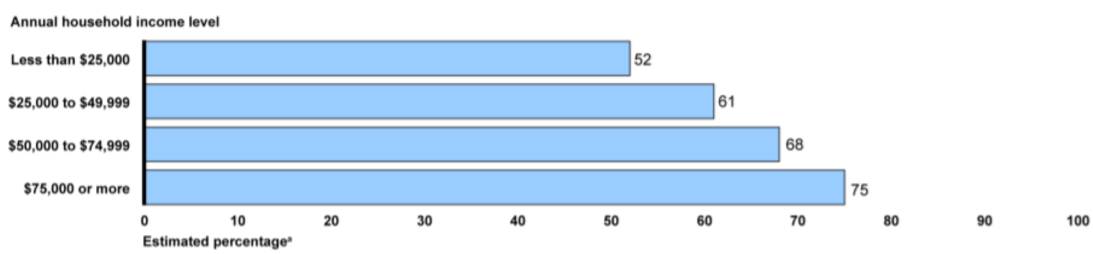
[National School Boards Association (“NSBA”)](#)
[NTCA–The Rural Broadband Association](#)
[Schools, Health & Libraries Broadband Coalition ("SHLB")](#)
[State Educational Technology Directors Association (“SETDA”)](#)
[State E-Rate Coordinators’ Alliance (“SECA”)](#)

Reply comments in this proceeding are due August 26th.

GAO Recommends Assessment of E-Rate Support for Off-Campus Internet Access:

The United States Government Accountability Office (“GAO”) issued a report on Internet access and the “homework gap” with the titled recommendation “FCC Should Assess Making Off-School-Premises Access Eligible for Additional Federal Support.” The report concludes (see Figure 1) that “children ages 6 to 17 in lower-income households are more likely than peers in higher-income households to lack high-speed in-home internet and rely on mobile wireless service.”

Figure 1: Estimated Percentage of School-Age Children (6-17) Using Internet at Home, by Annual Household Income



Source: GAO analysis of November 2017 Census Bureau Current Population Survey: Computer and Internet use Supplement. | GAO-19-564

The impact of this report on FCC policies is uncertain. On the positive side, the report contains a response from the FCC to a preliminary draft that states:

> We agree with GAO's recommendation that the FCC should "assess the potential benefits, costs, and challenges of making off-premises wireless access eligible for E-Rate program support, and publish the results of its analysis." Notably, the FCC voted to establish a new Office of Economics and Analytics in early 2018,[1] an office that became operational earlier this year.[2] One of the Office's roles is to offer data-backed analysis of policy questions confronted by the agency. Accordingly, the Chairman has tasked the Office, in consultation with the Wireline Competition Bureau, to assess the potential benefits, costs, and challenges of making off-premises wireless broadband access eligible for E-Rate program support.

On the other hand, the FCC notes that it “…must be mindful of the limits of [its] authority within the Communications Act.” Specifically, the FCC indicates that its statutory mission is limited “to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for…*school classrooms*.”

FCC Decision Watch:

The FCC issued another set of “streamlined” precedent-based decisions (DA 19-701) on July 31st. Applicants facing similar problems as addressed in these decisions may garner useful information by carefully reading the additional FCC explanations found in the footnotes. The original appeal and waiver requests can be found online in the FCC’s Search for Filings under Docket 02-6.

In last week's decisions, the FCC:

1. Dismissed:
    a. One Request for Review for failure to comply with the Commission's basic filing requirements (the applicant had simply submitted a copy of the RFCDL denial).
    b. Four Petitions for Reconsideration — three for not providing additional information; one for being untimely filed (i.e., within 30 days).
2. Granted:
    a. One Request for Review finding that the applicant had properly considered all bids.
    b. One Request for Review affirming the existence of a valid contract initiated by a school district subsequently merged into another district.
    c. Two Requests for Review and/or Waiver accepting the applicants' cost-allocations for ineligible components.
    d. One Request for Review finding that the applicant had selected the most cost-effective service offering.
    e. Two Requests for Review reversing USAC findings of ineligible services.
    f. One Request for Review granting additional time to respond to USAC's request for information.
    g. Two Requests for Waiver of the application window for Form 471s filed within 14 days of the deadline.
    h. Two Requests for Waiver involving Form 471 changes involving ministerial and/or clerical errors.
    i. One Request for Waiver wherein the applicant's bid evaluation had not reflected price as the primary factor but had in fact selected the lowest-cost provider.
    j. One Request for Review accepting a document not "styled as a formal appeal" as a timely-filed appeal. The FCC found that "the information submitted as part of the [PIA] review process six days after the adverse funding commitment decision was issued should be considered by USAC as information responsive to the rejection of funding and treated as an appeal."
    k. One Request for Review and Waiver related to a USAC error in posting a revised Form 470. The revised Form 470 was intended to add a tenth school to a consortium filing. The FCC found "no reason to believe that the omission of one school from the FCC Form 470 that USAC posted altered the competitive bidding result or to question the reasonableness of the pricing."
    l. One Request for Waiver for filing an appeal "only a few days late."
    m. One Request for Waiver of a service delivery deadline required as a result "of time limitations imposed by late-issued funding commitments."
    n. Five Requests for Waiver of special construction service delivery deadlines for reasons beyond the applicants' control, including waivers for Albuquerque, Bernalillo, and Santa Fe.
3. Denied:

a. Three Requests for Review for failure to satisfy the debt/Red Light Rule in a timely fashion.
b. Two Requests for Waiver seeking invoice deadline extensions.
c. Nineteen Requests for Waiver for late-filed Form 471s. In two instances, the FCC rejected arguments that USAC's system had been unavailable two days earlier (within the 14-day grace period typically granted for late-filed applications).
d. Ten Requests for Waiver of late-filed appeals or waivers.

USAC News Brief Dated August 2 – Applicant Form 498

USAC's Schools and Libraries News Brief of August 2, 2019, provides detailed information for applicants needing to file or update a Form 498. Applicants planning to file BEAR reimbursement forms must have an up-to-date and approved Form 498 on file with USAC to enable direct electronic deposit of BEAR payments. The Form 498 is not an annual filing requirement. Once a Form 498 is first filed and approved by USAC, it remains in effect and good unless and until contact information needs to be changed.

The Form 498 requires the following information:

- School or Library Official and General Financial Contact
- Data Universal Numbering System (DUNS) Number
- FCC Registration Number
- Bank account information for direct payments

One critical post-certification step is required when first filing a Form 498. It requires the filer to upload a copy of the associated bank statement or voided check so that USAC can validate the bank routing number and account number (see the E-File Upload Documents webpage).

Applicants unsure about the status of their Form 498 can use the FCC Form 498 Status Tool.

Nevada Governor's
Office of Science, Innovation and Technology

