

E-Rate Central News for the Week of August 12, 2019

- Funding Status – FY 2019
- Updates on USAC’s E-Rate Productivity Center and Legacy System
 - EPC IT Development Schedule
 - This Week’s EPC Deployment News
- E-Rate Updates and Reminders
 - Upcoming E-Rate Dates
 - Continued Uncertainty on Product Demo Rules
- USAC News Brief Dated August 9 – EPC Deployment News
 - New Form 498 business type requirement
 - New entity conversion procedures
 - Availability of the “current” Form 471 PDF

Funding Status – FY 2019

USAC released Wave 16 for FY 2019 on Thursday, August 8th. Funding totaled \$85.4 million including \$53.7 thousand for Nevada. Cumulative commitments through Wave 16 are \$1.31 billion including \$5.5 million for Nevada.

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

EPC IT Development Schedule:

The USAC Board of Directors met on July 30, 2019. The Information Technology Update ([pages 24-32](#)) highlighted the two following mission critical objectives for the Schools & Libraries Program for the remainder of FY 2019:

Briefing book excludes all materials discussed in Executive Session.
2019 Activities & Deliverables to meet the Vision
USF Mission Critical Deliveries

Program	Initiative	Timeframe
Schools	Address new C2 requirement for FY2020	Q1 2020
	Modify Form 470 to include stakeholder input (specifically Fiber)	Q1 2020

A second more detailed timeline for calendar 2019 showed work on the Form 471 to reflect the forthcoming Category 2 rule changes beginning in November. With public reply comments on the Category 2 NPRM due September 3rd, this presumes rather quick action by the FCC. If this does not happen and if the Form 471 changes cannot be completed until later in 1Q20, as suggested by the table above, the application window for FY 2020 may not open early in January as has been the recent practice. Notably, USAC did express confidence that it could accommodate any

necessary changes in a timely manner — perhaps understanding and/or hoping that prospective changes would not be complex. Rules to reset all five-year Category 2 budgets as of FY 2020, if adopted, could simplify the necessary changes.

Reference to a plan to modify the Form 470 — “to include stakeholder input” — is a welcome development long needed to eliminate and/or clarify fiber versus non-fiber options in the Category 1 pulldown menu that have been confusing applicants for several years. Other Form 470 changes may be required to conform the Category 2 menu to potential rule changes, whatever they may be. Modifications are expected to be made well in advance of the targeted implementation date of the FY 2021 Form 470 which is July 1, 2020.

This Week’s EPC Deployment News:

Please see the information below on USAC’s News Brief of August 9th discussing the following three EPC and related procedural updates:

- New Form 498 business type requirement
- New entity conversion procedures
- Availability of the “current” Form 471 PDF

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

August 16 Form 486 deadline for FY 2018 funding committed in Wave 54. 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 55	09/11/2019
Wave 56	N/A (no commitments)
Wave 57	10/03/2019

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.

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](#)). Reply comments are due September 18th. (See our [newsletter of August 5th](#).)
- 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 our [newsletter of August 5th](#) for E-rate implications.

Continued Uncertainty on Product Demo Rules:

Here we go again — new year; possibly new guidance; more new questions.

2018 in review:

- In May 2018, USAC updated the [Gift Rules](#) section of its website to state: “Applicants may not accept gifts with a retail value greater than \$20, which include but are not limited to gifts for attending seminars; marketing calls; loans of products, including those characterized as on-site product demonstrations; services or equipment; or trainings.” [emphasis added]
- In a June website update on the [Service Provider’s Role](#), subsequently confirmed in an August webinar on competitive bidding, USAC indicated that product demonstrations are acceptable if they are provided before an applicant posts a Form 470.
- In response to a question posed in USAC’s fall applicant training in early December, USAC clarified that “demos are OK; gifts are not.” The clear indication was that longer-term “loans” of equipment would be considered gifts, but shorter-term demos meant as product trials were fine.
- Later in December, in the hope of resolving this issue, the Schools, Health & Libraries Broadband Coalition (“SHLB”) wrote to the FCC formally seeking clarification that product demos are not gifts. The [SHLB letter](#) asked the FCC to direct USAC to remove the existing product demo language from its website. (Note: it’s still there.)

Fast forward to last week’s USAC’s two service provider training workshops in Washington, DC.

On Tuesday, in a session on advanced [program compliance](#), USAC shared and discussed the following slide. It indicated that product demos may be conducted for a maximum of two weeks after an applicant posts a Form 470. In response to a question, USAC suggested that a similar two-week limit would apply to pre-Form 470 demos.

Competitive Bidding: Demo Equipment

- Service providers can provide equipment to applicants for demonstration purposes while the competitive bidding process is open.
 - If the applicant wants to offer the option to a service provider of temporarily installing demo equipment, the applicant must offer that option to all other interested bidders.
 - To be considered demo equipment, the equipment from one service provider cannot be installed at the applicant site for more than two weeks (14 calendar days).
 - The applicant cannot choose a service provider before all demo equipment from all bidders has been uninstalled and removed from the applicant's premises.
 - The applicant is responsible for maintaining records related to the temporary installation and removal of demo equipment (e.g., date installed, date removed, type of equipment, associated FCC Form 470).

By Friday, when the training was repeated in the second session, the demo slide had been eliminated — both from the live presentation and from the online PowerPoint slides. For the moment, we're back where we started.

Applicants and service providers should expect — and deserve — more formal guidance on the E-rate rules governing product demos. Pending additional clarification, we suggest the following guidelines:

- Always remember that the underlying principle of all E-rate bidding rules and procedures is fair and open competition.
- Any product demo opportunity given to one supplier should be afforded to others.
- Product demos are for demonstration purposes only; they must not be considered equipment loans.
- Unless and until the most recent guidance is changed and/or further clarified, limit product demos to two weeks prior to any related contract awards.
- Fully document any product demos with logs and/or memos of understanding as to each demo's timeline including the dates of the receipt and return of the equipment, purpose, and evaluation results.

USAC News Brief Dated August 9 – EPC Deployment News

[USAC's Schools and Libraries News Brief of August 9, 2019](#), discusses three EPC deployments implemented over the past weekend — one requiring updates to applicant and service provider Form 498s.

New Form 498 Business Type Requirement;

The Digital Accountability and Transparency Act (“DATA Act”) of 2014 aims to make information on federal expenditures more easily accessible by, in part, establishing government-wide standards for identifying entities receiving funds. As now being implemented within the E-rate program, this will require updates to applicant and service provider Form 498 records to

indicate each organization's business type. USAC will also be asking Form 498 filers to update missing or incorrect DUNS numbers.

The News Brief indicates that USAC will be sending emails this Monday with Form 498 update instructions.

New Entity Conversion Procedures:

Effective Monday, USAC will be implementing new procedures for changing from one entity type to another within EPC. In general:

- Changes for an individual school or library from dependent (part of a school district or library system) to independent (acting on its own) and vice versa are allowable and can be requested and processed.
- For other entity-type change requests, the entity must obtain a new Billed Entity Number (BEN).
- Going forward, entities that make a change from independent to dependent will retain their independent status for the funding year(s) in which they were independent.

USAC indicates that it is working on a separate project to correctly align entities who changed their status from independent to dependent before this deployment.

Availability of the Current Form 471 PDF:

By Monday, EPC will also be updated to permit the generation of PDF versions of current (i.e., approved) Form 471 applications. EPC already permits applicants to access PDF versions of their original Form 471 applications, as filed and certified. The new current PDF version will display the net result of all changes to the Form 471 data since that form was filed. In other words, changes due to approved Receipt Acknowledgment Letter (RAL) modifications, PIA review, Form 486 review, appeals, SPIN changes, service substitutions, and other post-commitment actions will be reflected in the current version. The following restrictions on the current PDF version should be noted:

- The current version option will only be available for Form 471s certified for FY 2019 and future funding years.
- The current version will be available only when the application is committed.
- When you generate a current version, that version will NOT be updated automatically with any subsequent changes. If there are changes to the data on the form, you must regenerate the current version by clicking the "UPDATE CURRENT PDF" button
- The current version link expires about two months after you first generate it (i.e., save it locally to have continued access).
- The [FRN Status Tool](#) and the [Open Data Platform](#) will not have a link to the current version of the form.

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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