

E-Rate Central News for the Week of October 14, 2019

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Funding Status – FY 2019

USAC released Wave 28 for FY 2019 on Thursday, October 10th. Funding totaled \$31.5 million—none for Nevada. Cumulative commitments through October 10th are \$1.83 billion including \$7.3 million for Nevada.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

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|-----------------------------|---|------------|------------|---------|------------|---------|------------|---------|------------|
| October 16
– November 21 | Remaining USAC 2019 fall applicant/tribal training sessions (see USAC’s 2019 Training webpage for a schedule of the sessions). | | | | | | | | |
| October 28 | Invoice deadline for FY 2018 recurring services. Note: For applicants and service providers unable to submit their invoices by this date, October 28 th is also the deadline for filing 120-day Invoice Deadline Extension Requests (“IDERS”). | | | | | | | | |
| October 28 | Due date for nominations of six positions on the USAC Board of Directors (see DA 19-835) including the slot reserved for a library representative and one of the two slots reserved for school representatives. | | | | | | | | |
| October 29 | First Form 486 deadline for FY 2019, covering funding committed in Waves 1-10. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (typically July 1 st), whichever is later. The upcoming Form 486 deadlines are: <table><tbody><tr><td>Waves 1-10</td><td>10/29/2019</td></tr><tr><td>Wave 11</td><td>11/04/2019</td></tr><tr><td>Wave 12</td><td>11/08/2019</td></tr><tr><td>Wave 13</td><td>11/15/2019</td></tr></tbody></table> | Waves 1-10 | 10/29/2019 | Wave 11 | 11/04/2019 | Wave 12 | 11/08/2019 | Wave 13 | 11/15/2019 |
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| Wave 12 | 11/08/2019 | | | | | | | | |
| Wave 13 | 11/15/2019 | | | | | | | | |
| October 31 | Deadline for submitting initial FCC comments on improving the Form 470 drop-down menus (DA-986). (See article below.) Reply comments are due November 15 th . | | | | | | | | |
| October 31 | Proposed deadline to update the business type for existing Form 498s. (See our newsletter of August 19th .) | | | | | | | | |

Bids Received after the Form 470 Allowable Contract Date:

E-rate competitive bidding rules clearly require that Form 470 requests for bids must be posted for a minimum of 28 days. When a Form 470 is certified, EPC automatically calculates the 28 days, expressing the expiration of the 28-day requirement as the Allowable Contract Date (“ACD”). Any bid award or contract signed before the 28-day ACD is deemed invalid. Applicants have long known that an FRN based on an invalid award or contract will be denied.

The 28-day minimum is sacrosanct — but is, by definition, a minimum. Many procurements — particularly those involving more complex special construction projects — properly utilize longer bid evaluation periods. In other cases, involving minor bid modifications or clarifications, initial ACD dates should be extended for another 28 days beyond the release of new information.

The most recent USAC guidance — expressed in audit findings, PIA reviews, and training Q&A, but never in the form of an explicit written rule — concerns the treatment of bids received after the applicant’s 28-day posting period but before the completion of the applicant’s bid evaluation period. In the absence of a clearly stated bid submission deadline, USAC has recently taken the position that such bids must be fully considered — i.e., they cannot be automatically disqualified solely because they were received after the ACD.

For example, in a recent FRN denial, the PIA reviewer noted that “nowhere on the cited FCC Form 470” did the applicant state that bids were due by the ACD. As a result, PIA concluded that a bid, admittedly received after the ACD but five days before the applicant’s reported vendor selection date (as indicated on the bid evaluation matrix), should have been considered.

USAC’s position on the legitimacy of all bids received during the evaluation process is arguably consistent with previous guidance on bid disqualifications. USAC’s 2019 fall training slide on “Competitive Bidding Requirements: Imposing Restrictions,” for example, contains the following two bullet points:

- Bidder disqualification criteria must be spelled out in the FCC Form 470 and/or RFP and be available to all potential bidders.
- If you have bid disqualification factors, you must list them in your FCC Form 470.

Regardless of how these recent denials may be adjudicated on appeal, best practices suggest that:

- Applicants wishing to establish firm dates by which they will accept bids should so indicate them in their Form 470s and RFPs.
- Applicants not specifying bid deadlines should fully consider all bids received prior to the completion of their bid evaluation processes.
- Bid evaluation documentation should be signed and dated.

USAC News Brief Dated October 11 – EPC Administrative Window is Open

[USAC’s Schools and Libraries News Brief of October 11, 2019](#), announced the opening of the EPC Administrative Window. This is an indication that USAC has finished updating applicant

profiles in EPC — specifically entity and related student data — based on information that it examined and approved during the review of FY 2019 applications. The updates are likely to have overwritten any prior changes that applicants may have made to their own EPC profiles.

The Administrative Window gives applicants a limited period of time in which to review their entity profiles and further update student data, including NSLP eligibility, in preparation for the FY 2020 Form 471 application window. The Administrative Window will remain open (probably through the end of 2019) until shortly before the Form 471 application window opens (probably early in January 2020). Once the Administrative Window is closed, USAC will lock entity profiles for the duration of the Form 471 application window. Locking entity profiles during the application window is designed to stabilize discount rate data for libraries whose discount rates are determined by their associated school districts and for consortia whose discount rates are determined by all their school and/or library members.

We encourage all billed entities, whether or not they plan to file their own applications for FY 2020, to take advantage of the Administrative Window to review their EPC profiles for accuracy and, in the case of schools and school districts, to add or remove new or closed schools, and/or to update their enrollment and NSLP eligibility data.

USAC’s News Brief also provides reminders of three critical October deadlines. In particular:

- October 28, 2019 is the deadline for most program participants to:
 - File and certify invoices for FY 2018 recurring services.
 - Request one-time, 120-day extensions of the invoice deadline.
- October 29, 2019 is the deadline for many program participants to:
 - Certify Form 486 Receipt of Service Confirmation and Children's Internet Protection Act Certification Forms for FY 2019.

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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