

## E-Rate Central News for the Week of October 22, 2018

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## Funding Status – FY 2018 and FY 2019

### *FY 2018:*

USAC issued Wave 28 on Friday, October 19<sup>th</sup> for \$10.57 million including \$16 thousand for Nevada. Cumulative funding as of Wave 28 is \$1.84 billion including \$3.45 million for Nevada.

### *FY 2019:*

The FY 2019 administrative window is open and will remain open until roughly January 7<sup>th</sup> at which point EPC entity profiles will be locked for the duration of the Form 471 application window (estimated to be January 10<sup>th</sup> – March 20<sup>th</sup>).

The first sessions of USAC’s fall training for FY 2019 were held in Washington DC last week. Copies of the presentation slides are posted under [2018 Applicant & Service Provider Trainings](#) (scroll down to see individual topic slides).

## New USAC Contract for Business Process Outsourcing

For many years, USAC has outsourced the majority of the staffing for PIA application review, post-commitment changes, and invoice processing and review to Solix, Inc., in New Jersey. The contract with Solix is nearing expiration. Last week a replacement contract was awarded to MAXIMUS Federal Services, Inc., of Reston, Virginia.

We expect the transition from Solix to [MAXIMUS](#) to be challenging for both USAC and applicants. The transition plan, as set forth in the original RFP issued last March for “SL Business Process Outsourcing Services,” included the following milestone timetable.

Milestone	Date
<ul style="list-style-type: none"> <li>Services Start Date</li> </ul>	August 1, 2018
<ul style="list-style-type: none"> <li>Transition Period, including 1 to 3 Milestones to be defined by Contractor including due dates and the following deliverables:               <ol style="list-style-type: none"> <li>Establish project management team to ensure and oversee four (4) transition workstreams (Technology, Reporting &amp; Quality Assurance, Operations, Hiring &amp; Training)</li> <li>Establish processes and standard operating procedures (with process flows and escalation paths)</li> <li>Finalize staffing plan, facilities, connectivity, infrastructure, dependencies, architecture, licensing, training and access approvals</li> <li>Technology implementation</li> <li>Risk mitigation plan</li> </ol> </li> </ul>	TBD
Cutover Date	TBD Estimated January 1, 2019

The anticipated contract award date under the RFP was subsequently revised to September, so the actual award is already at least a month behind schedule. What did occur in September was a contract award to Deloitte Consulting “to support the transition of a new Business Processing Outsource (BPO) contractor” through the “establishment of the SLD Project Management Office (PMO).” That transition support contract indicated that Deloitte’s support would require a staff of 5-7 people for a period of up to 18 months — suggesting, we hope, that the transition will involve a phase-in of MAXIMUS with a gradual, manageable phase-out of Solix.

For applicants, the first indications of the transition may be expected during PIA review of FY 2019 applications. Stay tuned; this may be an interesting ride.

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

#### *Prospective Form 471 Changes for FY 2019:*

The Form 471 for FY 2019 will not be available in EPC until the application window opens (hopefully in the second week in January). Early indications are that the only EPC format change to the application process will be new screens to facilitate microwave or satellite options for broadband special construction. Previously the default assumption had been that such construction would involve fiber networks. To be technology neutral, wireless alternatives are supported, but had to be described separately in the Form 471’s narrative section. The new EPC version of the Form 471 will contain additional screens to support what is being called, at least initially, “wireless fiber FRNs” — an amusing oxymoron to brighten up the application process for technology outliers or those constructing hybrid fiber/wireless networks.

To use these options, applicants will be given the following choice:

Next, you will identify whether this Wireless FRN is Microwave or Satellite

### Fiber Request Key Information

Is this Microwave or Satellite wireless service? \*

MICROWAVE	SATELLITE
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After picking one or the other, applicants will get the following reminder to check “No” on a future Network Equipment question for special construction. This message is intended to serve as a reminder to file for recurring services such as maintenance and operating costs on a separate FRN and not to include it as part of the special construction FRN.

Please remember to create a new FRN for the microwave or satellite charges for non-special construction charges (if applicable). To access the FRN Line Item screen for microwave or satellite service recurring charges not related to special construction, select “No” when you receive the question, “Does this FRN include a request for dark fiber, a self-provisioned network, special construction costs to deploy new broadband networks, Network Equipment such as modulating electronics and other equipment necessary to make a broadband service functional, or maintenance and operation costs?”

A second Form 471 change expected for FY 2019 will be the availability of a PDF version of each applicant’s committed Form 471. Currently only the original version of an applicant’s Form 471 is available as a PDF download in EPC. The new post-commitment Form 471 PDF will reportedly become available after the application window closes and funding waves begin.

## E-Rate Updates and Reminders

### *Upcoming E-Rate Dates:*

- October 25      [USAC webinar](#) providing an introduction to EPC for new applicants.
  - October 26      FY 2017 Form 486 deadline for funding committed in Wave 56.
  - October 29      FY 2018 Form 486 deadline for funding committed in Waves 1–12 (all issued before July 1<sup>st</sup>).
- Note: Applicants missing any Form 486 deadline should watch carefully for “Form 486 Urgent Reminder Letters” in EPC. These Reminder Letters afford applicants 15-day extensions to submit their Form 486s without penalty.
- October 29**      Invoice deadline for FY 2017 recurring services. Note: For applicants and service providers unable to submit invoices by this date, October 29<sup>th</sup> is also the deadline for filing 120-day Invoice Deadline Extension Requests (“IDERS”).

### *Three FCC Decisions:*

The FCC issued three E-rate decisions last week, each interesting and unique in their own way.

[DA 18-1055](#) dismissed and denied a petition for reconsideration by the Detroit Public School District regarding previously denied applications for FY 2013-2015. USAC's denial had been based on the district's failure to consider the price of eligible services as the primary factor.

The district's analysis and weighting of the price of competing bids for FY 2013, the initial year of the 3-year contract, clearly raised questions. Vendor A, with a 3-year cost of \$3,834,900, was awarded 30 price points. Vendor B, with a 3-year cost of \$3,620,550, was awarded only 20 price points. Part of the discrepancy in this comparison may be attributed to the district's determination that \$790,000 of Vendor B's package price was deemed ineligible. As a result, the net post-discount cost to the district of Vendor A's service would have been less. The point to be stressed from the Detroit decision is that ineligible costs may be considered in bid evaluations, but must be considered separately from, and weighted lower than, eligible costs.<sup>1</sup>

[DA 18-1056](#), with one minor exception, denied a series of appeals and waiver requests by Connect2 Internet Network, Inc. tracing back to FY 1998-2000. Following a 2002 investigation by the FBI, Connect2 voluntarily admitted to numerous E-rate violations effectively providing free services — i.e., requiring no non-discount payments — to a number of New York private schools. As part of a plea agreement, the owner forfeited \$290,000 to the U.S. Treasurer and was debarred from the E-rate program. USAC then issued COMADs to Connect2 for improperly disbursed payments. Efforts to recover these funds has obviously dragged on. In this decision, the FCC:

1. Denied four appeals as being late. It rejected the company's contention that the lateness was excusable to the extent that correspondence had been addressed to the debarred and ill owner.
2. Rejected the company's contentions on the other appeals that recovery is (a) required only for statutory violations; (b) barred under the owner's plea agreement with the Department of Justice; and/or (c), are *de minimis* amounts.

[DA 18-1060](#) granted two waivers of the operational deadline for the special construction of fiber networks. Under the 2014 *E-Rate Modernization Orders*, new fiber networks must be in full operation (i.e., with lit fibers) by June 30<sup>th</sup> of the funding year for which such networks were approved. Note that this service delivery deadline, unlike that for other non-recurring services, does not provide an extra three months to September 30<sup>th</sup> of the following year. The FCC rules, however, do grant USAC the authority to extend the fiber operation deadline for one year upon a showing of good cause — often including delayed approval of the fiber applications, a common occurrence.

In last week's decision, both applicants with delayed approvals of FY 2016 applications, had already received extensions to June 30, 2018, but still needed more time. Both waivers granted reflect the FCC's understanding of construction issues associated with large fiber builds but illustrate the need for clearly documenting requests for additional extensions.

The Jemez Pueblo Tribal Consortium's network was 90% complete by last June but sought an additional two-month extension from USAC to finish. USAC punted the request to the FCC. The

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<sup>1</sup> Another point is that documentation is important, positively or negatively. In this case, an email indicating that bids need be evaluated "on factors that 'over-ride' the primary factor price to get a favorable outcome" did not help.

Consortium explained that the project was scheduled for completion by June but had been delayed by the State pending the completion of an archeological survey. The survey — and the network — were finished by the end of July. The FCC approved an extension to July 31, 2018, so that USAC can process the last invoices.

The Grants/Cibola County School District's request reflected extensive delays in USAC's review process. Although the district's initial FY 2016 was funded in January 2017, USAC asked additional questions in April 2017. Pending reaffirmation of funding, Grants/Cibola requested and received a one-year deadline extension to June 2018. USAC did not complete its post-approval review of the Grants/Cibola fiber funding until August 2018 — 16 months later! USAC, apparently unauthorized to further extend the deadline, denied the district's request for a second extension. The FCC granted an extension through April 2020 giving the district a full 18 additional months to complete the project.

Other applicants facing delays with fiber network construction are warned that the FCC emphasized “the limited nature of this decision” and that the relief in these two cases was deemed “warranted based on the specific facts and circumstances of these requests.”

### **USAC News Brief Dated October 19 – PQAs Beginning in November**

[USAC's Schools and Libraries News Brief of October 19, 2018](#), indicated that this year's round of Payment Quality Assurance (“PQA”) requests will begin in November. The PQA program is designed to statistically assess the proper payment of invoices. We expect that USAC will be conducting what we term “mini-audits” on FRNs associated with approximately 300 invoices paid during calendar 2018. Requests for information including bid evaluation documentation will be emailed to randomly selected applicants from the domain [usac.i-sight.com](mailto:usac.i-sight.com).

The News Brief also discussed additional training opportunities including:

- New video tutorials on EPC
  - [Logging in for the First Time](#)
  - [How to Create a New User](#)
  - [Add a Consultant User](#)
  - [Manage User Permissions](#)
  - [Modify Your Account Administrator](#)
- Planned live training events for Tribal applicants

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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 state education departments.*

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