

E-Rate Central News for the Week of December 9, 2019

Please see the attached newsletter for articles on:

- Funding Status – FY 2019
- FCC Releases Category 2 Rules
 - Category 2 Rules for FY 2020
 - Category 2 Rules for FY 2021 and Beyond
 - “Either-and” not “Either-or”
 - ESL and Other Issues
- E-Rate Updates and Reminders
 - Upcoming E-Rate Dates
 - Multifactor Authentication for Service Providers
 - Huawei Sues FCC To Halt National Security Prohibition
- USAC News Brief Dated December 6 – Category 2 Budgets and PQA Requests

Funding Status – FY 2019

USAC released Wave 36 for FY 2019 on Thursday, December 5th. Funding totaled \$31.8 million – none for Nevada. Cumulative commitments through December 5th are \$2.01 billion — breaking the \$2 billion level for the first time —including \$7.3 million for Nevada.

FCC Releases Category 2 Rules

One day after we mildly chastised the FCC, in our last newsletter, for not releasing the long-awaited Category 2 Order, they did so. Such is the power of the press!

The Category 2 Order ([FCC 19-117](#)) permanently adopts (with some simplifying changes) the basic 5-year budgeting process that had been in effect on a trial basis for FY 2015-2019. The new rules take effect on an ongoing basis as of FY 2021 with special transitional rules for FY 2020. The Order does not include the Eligible Services List (“ESL”) for FY 2020 but does address a few of the outstanding ESL issues and updates the equipment transfer rules.

Category 2 Rules for FY 2020:

The FCC order extends the existing Category 2 budgeting mechanism, which was set to expire after FY 2019, through FY 2020 — essentially converting five-year budgets into six-year budgets by expanding the budgets by 20%. For FY 2020:

- Budgets will still be calculated on a per school or per library basis.
- The basic budgetary factor for FY 2020 will be adjusted upward from FY 2019 to reflect inflation. The precise inflation factor has yet to be finalized but is estimated as 2.1%. At this rate, including the additional 20%, the pre-discount budget factors are estimated to be:
 - \$195.63 per student for schools.

- \$2.99 per square-foot for rural libraries.
- \$6.52 per square-foot for urban libraries (local codes 11, 12, and 21).
- \$11,998.43 minimum budget per entity.
- The actual FY 2020 budget for any school or library would exclude any committed Category 2 funding for the period FY 2015-2019.
- All Category 2 budgets will expire at the end of FY 2020 (i.e., no carryover into FY 2021).

Category 2 Rules for FY 2021 and Beyond:

Category 2 rules going forward are designed for greater simplicity. Beginning in FY 2021:

- The Category 2 budget mechanism will utilize fixed five-year cycles, i.e. FY 2021-2025, FY 2026-2030, etc.
- Budget factors will be fixed for the entire five-year period and adjusted for inflation only once at the start of each new five-year cycle.
- Budgets will be calculated and administered on a districtwide or systemwide basis for school “districts” and library “systems.”
 - A school district is defined as “all schools that fall under the control of a central administrative agency” (including, for example, a group of centrally-managed charter schools).
 - Conceptually, library systems would be handled and defined similarly.
 - Non-Instructional Facilities (“NIFs”) remain ineligible for Category 2 funding.
- The budget factors for FY 2021-2025 have been pre-determined.
 - \$167.00 per student for schools (counting full-time students only).
 - \$4.50 per square-foot for libraries (regardless of locale code).
 - \$25,000.00 minimum budget per entity.
- The total budget for a school district or library system is calculated for FY 2021-2025 as the **greater** of:
 - \$167.00 times the number of total students or \$4.50 times the total number of square feet; **or**
 - \$25,000.00 (the entity minimum) times the number of schools or libraries.

Note: the \$25,000 minimum entity option will prove superior if the average size of a district’s schools is less than 150 students or a system’s average library is less than 5,555 square feet.

- Districts of 10 schools or less, and systems with 10 libraries or less, have a hybrid option for calculating budgets for individual schools or libraries using either the \$167/student, \$4.50/sq.ft., or \$25,000 minimum calculation, then summing the individual results for a total budget.

“Either-and” not “Either-or”:

Here’s a question for any E-rate applicant who used little or no internal connections funding over the past five years: “Should I apply for Category 2 funding in FY 2020 or should I wait until FY 2021 or later?”

The proper response to this question is to recognize that this is an improper question. The best strategy under the FCC’s new Category 2 rules is not “either-or;” it’s “either-and!” Applicants who have used no Category 2 funding to date qualify for receiving six years’ worth of Category 2

funding in FY 2020 and five years' worth of funding over the five-year period FY 2021-2025. The FY 2021-2025 opportunity is good; the FY 2020 opportunity is spectacular!

Consider these pre-discount budget examples for schools and libraries that have not used any Category 2 funding to date:

For a school district with 1,000 students:	
FY 2020 @ \$195.63 per student:	\$195,630.00
FY 2021-2025 @ \$167.00 per student:	\$167,000.00

For an urban library of 10,000 square-feet:	
FY 2020 @ \$6.52 per square-foot:	\$65,200.00
FY 2021-2025 @ \$4.50 per square-foot:	\$45,000.00

For a rural library of 10,000 square-feet:	
FY 2020 @ \$2.99 per square-foot:	\$29,900.00
FY 2021-2025 @ \$4.50 per square-foot:	\$45,000.00

Ignoring the possible benefits of the \$25,000 minimum budget factor that can provide additional budget benefits beginning in FY 2021, these examples illustrate the importance of the sixth-year step-up in the budget factors for the upcoming year. Rural libraries will receive a substantial increase in Category 2 budgets in FY 2021 whether they apply for funding in FY 2020 or not. Schools, school districts, and urban libraries also receive healthy five-year budgets as of FY 2021 but have been given an even larger one-year budget for FY 2020. These are “either-and” opportunities not to be missed.

ESL and Other Issues:

In addition to its new Category 2 budget rules, the FCC’s Order addressed two other issues, namely:

- In reference to the Eligible Services List (“ESL”) for FY 2020, which has not yet been released (but is expected soon), the FCC ruled as follows:
 - Basic Maintenance of Internal Connections (BMIC), Managed Internal Broadband Services (MIBS), and caching servers remain eligible.
 - No new services will be added to the Eligible Services List.
 - The FCC has waived the 60-day ESL release requirement for the opening of the Form 471 application window for FY 2020. This should permit USAC to open the window as planned by mid-January.
- The transfer of equipment between schools in a district or between libraries in a system no longer needs to be reported to USAC. (Note: transfer records, including reasons for transfers, must be maintained for five years; and asset and inventory records are required to be retained for ten years after purchase).

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

December 11 USAC webinar “[Preparing for FY 2020](#).”

December 13 Form 486 deadline for FY 2019 funding committed in Wave 17. 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 18 12/20/2019

Wave 19 12/27/2019

Wave 20 12/30/2019

January 10? Estimated end date of the administrative window for FY 2020, the period in which applicants can — and should — update entity data in their EPC accounts. Once the administrative window is closed, EPC entity data will be locked for the duration of the FY 2020 application window. For details, see [USAC’s Schools and Libraries News Brief of October 11, 2019](#).

Multifactor Authentication for Service Providers:

USAC issued a [Special Edition News Brief on December 2nd](#) to advise service providers that it was adding multifactor authentication (“MFA”) to the login procedure used by service providers to access the E-File system. The E-File system is used by service providers to access (a) the Form 472 BEAR search tool, (b) the Form 473 SPAC, (c) the Form 498, (d) the legacy Online Item 21 tool, and now (d) the Form 474 SPI. MFA (and SPI filing capability within the E-File system) became effective December 4th.

MFA is an added security feature being added to many web-based portals. In addition to the typical username and password used with most system logins, MFA logins require one or more additional entries such as a one-time security code delivered by email or mobile text. The additional authentication step is being added to cut down on the unauthorized sharing — or hacking — of user names and passwords. The downside, of course, is that the additional step will make portal logins a bit slower and more burdensome.

USAC has indicated that it will be instituting the MFA procedure to all its systems, but that it will refrain from adding it to the EPC portal until later next spring after the close of the Form 471 application window for FY 2020. A short [MFA training video](#) is available on the USAC website.

Huawei Sues FCC To Halt National Security Prohibition:

As discussed in our [newsletter of December 2nd](#), the FCC has adopted an Order ([FCC 19-121](#)) prohibiting the use of USF funds to purchase equipment and services from companies — specifically Huawei and ZTE — deemed to be threats to national security. Huawei has filed a petition for review in the United States Court of Appeals for the Fifth Circuit (covering the region in Texas that includes Huawei’s American headquarters) alleging that the FCC’s deliberations did not offer Huawei adequate due process protections before designating it a security threat. Unless the Fifth Circuit issues a stay order, the FCC’s national security Order will become effective upon its publication in the *Federal Register*.

Compliance with the FCC’s national security Order is predominantly the responsibility of service providers, but it behooves E-rate applicants to seek assurances from their vendors that equipment

and services provided are compliant. Dealing with this situation is similar to another long-standing rule requiring service providers to provide equipment and services at the [Lowest Corresponding Price](#) (“LCP”). It would not be inappropriate for E-rate applicants to seek service provider compliance with both rules during the competitive bidding (or contracting) process with Form 470 and/or RFP language such as:

By submitting a bid on the requested services herein, the vendor certifies that its proposed prices are consistent with the FCC’s [Lowest Corresponding Price](#) (“LCP”) requirements and that its equipment and services are compliant with the FCC’s recent Order ([FCC 19-121](#)) prohibiting the sale, provision, maintenance, modification, or other support of equipment or services provided or manufactured by Huawei, ZTE, or any other “covered company” deemed a national security threat.

USAC News Brief Dated December 6 – Category 2 Budgets and PQA Requests

[USAC’s Schools and Libraries News Brief of December 6, 2019](#) notes the FCC’s release of the Category 2 budget Report and Order, discussed in much greater detail above.

The News Brief also indicates that USAC’s 2019 [Payment Quality Assurance \(PQA\)](#) assessment program is now underway. Randomly selected applicants may be asked to provide invoice documentation to validate payments made over the past twelve months.

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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