Nevada E-Rate Weekly News	Weekly E-Rate Newsletter Vol. 3, No. 52 December 30, 2019

E-Rate Central News for the Week of December 30, 2019

Please see the attached newsletter for articles on:

- Funding Status – FY 2019 and FY 2020
- 2019 Review – 2020 Preview
  - Key E-Rate Milestones in 2019
  - Anticipated E-Rate Developments in 2020
- E-Rate Updates and Reminders
  - Upcoming E-Rate Dates
  - FCC Decision Watch
- USAC News Brief – None for the Pre-New Year's Week

Funding Status – FY 2019 and FY 2020

FY 2019:

USAC released Wave 39 for FY 2019 on Friday, December 27th. Funding totaled $16.8 million, none for Nevada. Cumulative commitments through December 27th are $2.06 billion including $7.3 million for Nevada.

FY 2020:

The Form 471 application window will open at noon on Wednesday, January 15th, and will close at 11:59 p.m. EDT on Wednesday, March 25th.

The FY 2020 administrative window, which is currently open, will close shortly before the application window opens. At that point EPC entity profiles will be locked for the duration of the Form 471 application window.

2019 Review – 2020 Preview

At the New Year, it is worthwhile to look back on the past year and to plan for the new one. Here's our E-rate review of 2019 and a preview of 2020. Additional details on 2019 developments can be found in our E-Rate Weekly News Archive.

Key E-Rate Milestones in 2019:

January	• Maximus Federal Systems replaced Solix Inc. as USAC's Business Process Outsourcing ("BPO") contractor handling PIA application review, post-commitment changes, and invoice processing.

- The FY 2019 application window opened January 16th and closed March 27th.
- The U.S. Senate unanimously approved a full second term for FCC Commissioner Brendan Carr and filled the vacant second-Democratic Commissioner seat with Geoffrey Starks.
- The FCC launched a new version of its COmmission REgistration System ("CORES") used to administer FCC Registration Numbers ("FCC RNs") required of all E-rate applicants and service providers.

- The FCC released a Notice of Proposed Rulemaking ("NPRM") and Order (FCC 19-5) extending the FY 2015-2018 suspension of an earlier rule requiring a three-year amortization of special construction charges of $500,000 or more. The NPRM proposed to permanently eliminate the amortization requirement. As of this date, the FCC has not ruled on its proposal, but has retained the suspension pending that decision.

February

- The FCC announced a plan (FCC 19-3) to create a new Fraud Division within its Enforcement Bureau to fight waste, fraud, and abuse in Universal Service Fund programs (including E-rate).
- The FCC's Wireline Competition Bureau ("WCB") released its report (DA 19-71) summarizing the success of the 5-year Category 2 budgeting process and recommending its permanent continuance.

March

- FCC Commissioner Michael O'Rielly sent a letter to USAC requesting information and reiterating his longstanding concerns over the use of USF funds — particularly E-rate — to overbuild existing carrier networks. USAC responded in April noting that all broadband applications were reviewed in full compliance with the FCC's existing E-rate program rules.

	• USAC's preliminary demand estimate for FY 2019 showed a 5% increase to $2.90 billion from FY 2018.
April	• At the behest of FCC Commissioner O'Rielly, a proposal was circulated among the FCC Commissioners that would set an annual cap on the Universal Service Fund ("USF"). Although the proposed cap of $11.4 billion is well above recent USF expenditures, which average roughly $8 billion/year, there is concern that the proposal would create intra-fund conflicts. To date there has been no action on the proposal.
	• The first funding wave for FY 2019 was released on April 27th with the issuance of over 18,500 FCDLs representing just over half of the in-window applications filed totaling approximately $530 million.
May	• An increase in tariffs to 25% on Chinese telecommunication and network equipment raised questions on the flow-through of price increases on network products and components. Although Cisco and others indicated that they would honor all quotes on past E-rate submissions, tariff instability may need to be addressed in future E-rate procurements.
	• The FCC issued a Notice of Proposed Rulemaking ("NPRM") regarding the future of Category 2 budgets.
	• USAC updated the Gift Rules section of its website to indicate that product demonstrations may fall under the provisions of E-rate rules prohibiting gifts with a retail value greater than $20. Subsequent slides in the summer's service provider training and a webinar on competitive bidding provided conflicting guidance on the product demos. This issue has yet to be clarified.
June	• As of the end of June, prior to the start of FY 2019, USAC had released ten funding waves with FCDLs issued on just over 73% of applications received for FY 2019 totaling approximately $978 million.
July	• Responding to complaints from applicants not receiving BEAR Notification Letters, USAC reissued the letters from December 21, 2018, through June 14, 2019. The reissued letters provided a 60-day appeal deadline for contesting zero-paid BEARs.
August	• The U.S. Department of Agriculture proposed a change in family eligibility for the Temporary Assistance for Needy Families ("TANF") program as it applied to the Supplemental Nutrition Assistance Program ("SNAP") that would adversely impact an estimated 500,000 students receiving free lunches.
	• 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."

- USAC instructed applicants and service providers to update their Form 498s to comply with the business type requirements of the Digital Accountability and Transparency Act ("DATA Act") of 2014.

September

- On an application percentage basis, USAC largely met its FCC directed target of having issued FCDLs on all workable FY 2019 applications by September 1st. The actual percentage was about 92%. Performance on a dollar amount basis was less impressive totaling $1.6 billion out of the estimated $2.9 billion requested. The 8% of the applications still pending represented over 35% of the requested funding.
- The FCC's Proposed Fourth Quarter 2019 Universal Service Contribution Factor hit an all-time high of 25.0% — fortunately dropping back to 21.2% for the first quarter of 2020.

October

- The FCC reached out for comments on simplifying the Form 470 drop-down menus which have been confusing applicants for several years. A revised Form 470 will not take effect until July 2020 in preparation for FY 2021.
- EducationSuperHighway released its 2019 State of the States Report showing that 99% of school districts had met the short-term goal of providing 100 Kbps of Internet bandwidth per student and that less than 750 district schools nationwide did not yet have fiber connections.

November

- The FCC adopted USF National Security Rules (FCC 19-121) and released an NPRM (FCC 19-120) to revise its suspension and debarment rules (see our newsletter of December 2nd).

December

- USAC adopted multifactor authentication ("MFA") to the login procedure used by service providers to access the E-File system. A similar MFA requirement for applicant access into EPC will take effect following the close of the FY 2020 application window.
- The FCC finally released the new Category 2 budget rules (FCC 19-117) resetting all budgets as of FY 2021 on a districtwide or systemwide basis and extending the existing budgeting process through FY 2020 as a transitional step and adding an additional 20% to all budgets (see our newsletter of December 9th and our webinar of December 13th).
- The FCC released the Eligible Services List (DA 19-1249) for FY 2020. It was unchanged from FY 2019. The FCC declined requests to include additional cybersecurity protection in the list for this year.

Anticipated E-Rate Developments in 2020:

2020 is shaping up to be an interesting year. At the forefront of the developments will be the FCC's recent Category 2 Order (FCC 19-117) adding a sixth year in FY 2020 — and an additional 20% in funding — to the "trial" 5-year budgeting process established in FY 2015, and resetting all 5-year budgets under revised "permanent" rules for FY 2021 forward.

As we indicated in our newsletter of December 23rd, applicants who have not yet used Category 2 funding have a unique opportunity in FY 2020. Their budgets for this one year will be higher — 17% higher for schools and 45% higher for urban libraries — than their total budgets for the next five years when Category 2 budgets are reset for FY 2021-2025. By our estimate, there are roughly $5 billion in unused Category 2 discounts available for use, otherwise set to expire, in FY 2020. Although we do not expect demand to reach this level in FY 2020, we do anticipate robust Category 2 activity. This may be a challenging year for USAC to update its IT and PIA reviewer systems to reflect the Category 2 changes for FY 2020 and to recast them again for FY 2021. The FCC also has a role to play since it needs to clarify certain aspects of the new rules to, for example, address new schools in expanding charter school "districts", decide how to treat half-day programs for educational service centers ("ESCs"), and transfer the reporting requirements for equipment installed pre-FY 2021.

Two other FCC orders and or notices of proposed rulemakings ("NPRMs") will come into play for 2020. Specifically:

1. The FCC's new Universal Service Fund ("USF") national security rules (FCC 19-121) will become effective following their publication in the *Federal Register* (see our newsletter of December 2nd). The rules bar the use of USF funding to purchase equipment from Huawei and ZTE for E-rate purposes as of FY 2020. Neither of these Chinese companies have historically served as E-rate service providers, but a small amount of their equipment has been sourced by other suppliers. Applicants are advised to seek vendor certifications that their equipment is neither manufactured by, nor contains components from, either Huawei or ZTE.
   A companion NPRM to the national security order would require the removal and replacement of previously installed Huawei and ZTE equipment by telecommunication carriers. The NPRM proposes to exempt E-rate applicants from the requirement.

2. Also discussed in our December 2nd newsletter is the FCC's NPRM (FCC 19-120) to adopt new, broader, and more flexible suspension and debarment procedures for all USF programs. From an E-rate perspective, this would require a higher "primary" level of disclosures and certifications by applicants and service providers and a potentially "lower" level by subcontractors and consultants. Depending upon how the new rules are implemented, this could either aggravate or provide much needed transparency to so-called "black hole" situations whereby E-rate applications and/or invoices are held for extended periods without explanation.

The two main procedural matters we're tracking for 2020 are revised dropdown menus for the online Form 470 for FY 2021 and the implementation of dual factor authentication for system logins. In particular:

1. As of November, the FCC had received numerous comments and reply comments with regard to the drop-down service type menus in the Form 470 — a source of considerable confusion over the past four years. A major revision to the Form 470 menus is expected when the FY 2021 version becomes available in EPC in July.

2. Multi-factor authentication ("MFA") is a process whereby login access to an online system requires more than a username and password. Once the username and password are entered, additional authentication is required typically involving either entering a one-time code transmitted by text or email or answering one or more predefined security

questions. USAC's [Special Edition News Brief on December 2nd] indicated that dual-factor authentication was being added immediately for service provider logins to the E-file system, but that MFA security would not be required for EPC access until later this spring after the close of the Form 471 application window.

The FCC is apparently ready to move forward and permanently remove the requirement to amortize special construction charges of $500,000 or more. In a March order and NPRM (FCC 19-5), the FCC extended the non-amortization exemption to cover FY 2019 and proposed making the exemption permanent. An order to do away completely with special construction amortization is currently being circulated within the Commission and is expected to be adopted shortly.

Other factors worth tracking for 2020 include:

1. Additional guidance from USAC on the best way to handle the transition of service from existing circuits to new circuits when the exact timing of the cutover(s) cannot be precisely determined.
2. Guidance from USAC on product demos — hopefully resolving an issue raised in 2019 training suggesting that equipment provided to applicants for demonstration purposes could be considered illegal "gifts."
3. Possible moves by the FCC to set a cap on total USF funding and/or to limit the construction of new fiber networks in areas covered by existing carriers previously built with USF support.
4. More extensive enforcement actions by USAC or the FCC with regard to the Lowest Corresponding Price ("LCP") requirements for both Category 1 and Category 2 suppliers.
5. International tariff uncertainties particularly affecting the cost of Chinese products and components.

Two developments we would like to see in 2020 — but unfortunately may not — are FCC support for (a) the eligibility of cybersecurity devices and service and (b) off-campus Internet services to provide WiFi on school buses and/or residential services to help eliminate the Homework Gap.

We wish you all the best for the New Year and a successful FY 2020.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

December 30	Form 486 deadline for FY 2019 funding committed in Wave 20 and Wave 22 (both issued the same day and skipping Wave 21). 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 23 — 01/03/2020 Wave 24 — 01/10/2020 Wave 25 — 01/17/2020

January 10 (est.)	Close of the administrative window permitting applicants to update their EPC entity profiles.
January 15	Form 471 application window for FY 2020 opens at noon EST.
January 21	USAC webinar on Category 2 Budgets.
January 28	Invoice deadline — or deadline for requesting a 120-day extension — for FY 2018 non-recurring services.
February 25	Extended invoice deadline for FY 2018 recurring services.
February 26	Last day to file a Form 470 and meet the minimum 28-day posting requirement prior to the close of the FY 2020 Form 471 application window.
March 25	Close of the Form 471 application window for FY 2020 at 11:59 p.m. EDT.

FCC Decision Watch:

The FCC approved a waiver request by the Missouri Research and Education Network ("MOREnet") rescinding USAC COMADs on selected FRNs in consortium applications from FY 2013 and FY 2014 (see DA 19-1320). For a consortium of nearly 600 members, MOREnet had filed a series of applications at different average discount rates grouping its member entities into "bands" or ranges of discounts so that schools and libraries participated in applications that would reflect the discount they would have received if they applied on their own.

E-rate applications have long included a certification that states: "I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services." Although this certification does not specifically mention E-rate consortia, it is the distribution of consortium discounts that is affected the most.

MOREnet's banded approach to its application filings was an attempt to meet the spirit of this certification. Following a PQA review in 2017, however, USAC determined that MOREnet's bands did not provide adequate precision noting that not all the members in a particular application were represented in each FRN of that application. USAC then recalculated discounts on an FRN-by-FRN basis; reduced funding on those FRNs deemed to have used improperly high — albeit only marginally so — discount rates; and sought repayment of the "excess" discounts.

In approving the waiver, the FCC took a more practical approach. It found that:

> [T]he manner in which MOREnet calculated the Consortium's discounts is reasonable and consistent with Commission rules and overall policy that encourages consortia purchasing. In particular, we find relevant that the Commission's rules or orders do not squarely require that consortia applicants calculate their discounts at the FRN level…Because MOREnet demonstrated its efforts to group applicants based on both services sought by and the discount levels of the applicants, we find MOREnet's methodology to be reasonable under the circumstances presented and consistent with the Commission's expectation that the consortium lead try to adjust the discount rate received by each applicant to more accurately reflect what the discount rates would be outside of the consortium.

For additional information on the proper method for distributing E-rate discounts among consortium members with different individual discount rates, see our newsletter of September 29, 2014.

USAC News Brief – None for the Pre-New Year's Week

USAC did not issue a Schools and Libraries Program News Brief on Friday, December 27th.

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.

For further information on E-rate, follow us on Twitter, Facebook, and LinkedIn.

If you have received this newsletter from a colleague and you would like to receive your own copy of the Nevada E-Rate Weekly News, send an email to nevada@e-ratecentral.com Please include your name, organization, telephone, and e-mail address. This email address can also be used to unsubscribe.

E-Rate Central is a nationally recognized E-rate consulting firm providing complete E-rate application and processing services for applicants and is official E-rate partner with the State of Nevada.

Nevada Governor's
Office of Science, Innovation and Technology