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Funding Status – FY 2016 and FY 2017

Wave 31 for FY 2016 was released last Friday, January 27th, for a total of \$115 million. Roughly 580 FCDLs were issued in Wave 31. Funding for North Carolina was \$3.04 million for 9 applicants. Cumulative national funding through Wave 31 is \$2.04 billion, including \$80.9 million for North Carolina. Overall, a little less than 8% of all applications remain pending. Wave 32 is scheduled to be released Wednesday, February 1st.

The application window for FY 2017 has not yet been announced, but further information may be forthcoming following today’s meeting of the Schools and Libraries Committee of the USAC Board. At the moment, our expectation is that the window will open no earlier than March 2017 and will close sometime in May.

Ajit Pai Appointed FCC Chairman

President Trump appointed current Commissioner Ajit Pai as Chairman of the FCC. Chairman Pai replaces the previous Chairman, Tom Wheeler, who resigned from the FCC coincident with last week’s inauguration.

Current and Prospective Commissioners:

The FCC is structured to have five Commissioners, the majority affiliated with the Administration, now Republican. Currently, there are only three Commissioners — Ajit Pai and Michael O’Rielly, both Republicans, and Mignon Clyburn, a Democrat. Chairman Pai’s term expires at the end of 2017 and we would expect him to be reappointed to another term.

The two vacant Commissioner slots are likely to be filled later this year. Jessica Rosenworcel, a previous Democratic Commissioner whose term had expired, was nominated for a new term by the outgoing Administration. We would not expect her nomination to be considered for

confirmation until a third Republican is nominated and confirmed, thus maintaining the Republican majority.

Staff Appointments:

Chairman Pai has moved quickly to fill a number of key staff positions including:

- Permanent or acting [bureau and office chiefs](#)
- Acting [General Counsel](#)
- Office of the [Chairman staff](#)

From an E-rate perspective, the key appointments are those associated with the Wireline Competition Bureau, namely:

- Kris Monteith, Acting Chief of the Wireline Competition Bureau
- Jay Schwarz, Acting Wireline Advisor to the Chairman

E-Rate Implications of a Reconstituted FCC:

At this stage, it is too early to tell how E-rate — or even the FCC as a whole — may change under the new Administration.

At the broadest level, we expect the FCC to retain jurisdiction for all or most of its current responsibilities. The early appointment of Chairman Pai may be a signal that the Administration plans to keep the Commission intact.

E-rate was initially a Democratic-inspired program embedded in the Telecommunications Act of 1996, but it now appears to enjoy Congressional support on both sides of the aisle. Within the last week or two, we have heard proposals — e.g., replacing E-rate with state block grants, moving the administration of E-rate to the Department of Education, and/or replacing Universal Service funding with general tax revenues — that appear unlikely.

As far as the FCC is concerned, however, we do expect changes. [Remarks](#) last week by Chairman Pai pointed out that one of the FCC's core priorities going forward must be to close the digital divide. Although E-rate is one of the tools for doing so, it should be remembered that both Chairman Pai and Commissioner O'Rielly cast dissenting votes in 2014 on both E-rate Modernization Orders. Chairman Pai, while he has supported E-rate funding for rural schools, has criticized the:

- Overly complex nature of the E-rate application process
- Extra funding authorized by the Second E-rate Modernization Order ([FCC 14-189](#)) raising the annual cap to \$3.9 billion
- High discount rates — most specifically the additional 10% with matching state funding — reducing the “skin in the game” for many applicants
- Ongoing and outsized demand for funds by large urban applicants

Our expectation is that E-rate will remain a viable program under the FCC's administration, but that there will be changes — most likely not taking effect before FY 2018. High discount applicants benefiting under the current rules should take steps to optimize their FY 2017 applications.

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

Form 486s "In Review:"

A large majority of Form 486s submitted through EPC for FY 2016 are electronically approved within seconds. Usually, if approval is not automatically granted, the problem is with an apparently inconsistent CIPA certification. Approval is almost always granted if the applicant checks the certification indicating unconditional compliance with CIPA.

Most Form 486s, which are not automatically approved, are still "In Review" status. Usually, this is the result of CIPA certification choices (a) requesting a CIPA waiver, (b) indicating that CIPA does not apply (which is true only for purely telecommunications services), or (c) indicating that the applicant is "undertaking" action to become CIPA compliant (available only to applicants in their first funding year).

Applicants with Form 486s under review should note that:

1. Until a Form 486 is approved, USAC will not process invoices for the associated FRNs. This can be a particular problem for applicants expecting discounts on current bills from their service providers.
2. It may take a month or more for USAC to address individual applicant Form 486s in review. Although currently under development, the EPC system itself is not yet capable of reaching out to applicants to resolve apparent Form 486 discrepancies.

In the short-term, our advice to applicants with unapproved Form 486s is to check their CIPA certifications carefully. There is no way to correct a submitted Form 486, but an incorrect Form 486 can be canceled and resubmitted. To cancel a Form 486 in review, call USAC's Client Service Bureau ("CSB") at 888-203-8100. Make sure to verify that the Form 486 has been canceled before resubmitting.

FRN Change Requests for FY 2016 – or Earlier:

This is a tough time to request changes to approved FRNs for FY 2016 or for earlier funding years. As noted in USAC's [News Brief of January 6th](#), a new version of the Form 500 has been incorporated in EPC. The Form 500 is used to request FRN changes to (a) Service Start Dates, (b) cancel or reduce funding, (c) request service delivery extensions, or (d) notify USAC of revised contract expiration dates or equipment transfers. Please note:

1. The EPC version of the Form 500 was designed to handle FY 2016 FRNs only. Last week's USAC News Brief, discussed below, discusses a new work-around for requesting

Form 500-type changes for earlier funding years by uploading a new paper version of the Form 500 through EPC.

2. USAC has not completed development of the Form 500 processing module, and these requests will remain pending until the EPC system provides this capability and the growing backlog of requests can be addressed.

SPIN changes and service substitutions, two types of FRN changes not covered by a Form 500, may be submitted as EPC Customer Service cases. This process is also discussed in USAC's most recent News Brief referenced below.

New Version of Form 479:

New versions of the [Form 479](#) and its [accompanying instructions](#) were posted on the USAC website last week. The new Form 479, designated "December 2016," replaces the previous "December 2013" version whose OMB approval had expired at the end of last year. The only real difference between the old and new version is the revision of the record retention certification to reflect the current 10-year requirement.

The Form 479 is an unusual E-rate form in that:

1. It is used by consortium members to certify members' CIPA compliance to their consortium leaders. As such, Form 479s are submitted to the consortia, not to USAC. Only by collecting Form 479s from its members can a consortium leader certify the entire consortia's CIPA compliance, a requirement for filing a consortium Form 486 for non-telecommunications services.
2. Unlike other E-rate forms, the Form 479 is available only on paper. A [type-in version of the new Form 479](#) is available on E-Rate Central's website.

The transition to the new Form 479 may create a timing issue for any consortium which began collecting Form 479s from its members in 2016, but did not fully complete the process by the time the new version became available last week. Pending further guidance from USAC:

1. "December 2013" versions of the Form 479, signed and dated in 2016, should be valid for FY 2017 consortium purposes.
2. Although the FCC ultimately may authorize a grace period, our recommendation is that consortium members who received, but did not sign, the "December 2013" version of the Form 479, in 2016, be given and asked to sign the new "December 2016" version.

E-Rate Updates and Reminders

Upcoming 2017 E-Rate Deadlines:

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| January 30 | Invoice deadline for FY 2015 non-recurring services. This is also the deadline for submitting Invoice Deadline Extension Requests ("IDERS") for these services. As of this past weekend, the IDER feature of the online |
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BEAR system was incorrectly showing a deadline date of February 28th, and would not permit filing an IDER after that date. If necessary, and if not fixed later today, IDERs can be filed the EPC Customer Service mechanism.

The IDER deadline maybe problematic for applicants who had requested, but have not been granted, one-year extensions of the service delivery deadline to September 30, 2017, with the expectation of work being done later this spring or over the summer. Such extensions, if and when approved, would automatically extend the associated invoice deadline to this time next year. In most of these cases we are recommending that applicants wait for their service delivery (and invoice) deadlines to be extended rather than use their one automatic invoice deadline extension request (“IDER”) now. If you “burn” an IDER now, it will only extend your invoice deadline until May 29, 2017. Unless your equipment is going to be installed this spring, that won’t do you much good if you really need a service delivery extension to September 30, 2017.

January 31 Form 486 deadline for FY 2016 funding committed in Wave 15. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (often July 1st), whichever is later. This means that Form 486 deadlines for funding commitments received in later waves will follow at roughly one week intervals, including the following February deadlines:

Wave 16	02/07/2017
Wave 17	02/16/2017
Wave 18	02/23/2017
Wave 19	02/28/2017

Applicants missing these (or earlier) deadlines should watch carefully for “Form 486 Urgent Reminder Letters” (actually emails directing the applicants to EPC News Feed items). The Reminders will afford applicants with 15-day extensions from the date of the emails to submit their Form 486s without penalty (see [USAC News Brief of November 4th](#)).

February 27 Extended — and effectively final — invoice deadline assigned to FY 2015 recurring service FRNs for approved IDERs granted last year.

Out-of-Business and/or Bankrupt Vendors:

Avaya’s recent filing for Chapter 11 bankruptcy protection has raised a series of E-rate questions concerning service providers who are no longer in business or are operating in bankruptcy.

At the outset, we should note [Avaya’s recent notice](#) to customers and partners stressing that its “operations remain strong” and that it will continue to operate normally.

More broadly, however, it is worth considering how applicants should deal with real or potential business failures of E-rate service providers during pre-funding year, current funding year, or post-funding year periods. The approach required for each period is distinctly different. In particular:

1. The relative issue during the pre-funding procurement process is the evaluation of the financial and operational stability of potential bidders that could affect the ongoing viability of a product or service. Although E-rate rules require primary consideration to be given to the price of eligible services, a more subjective financial/operational factor may also be considered. A point to remember is that the use of such a factor should apply not only to the actual service provider, but, if appropriate, to the underlying manufacturer of products being provided.
2. Once a service provider has been selected, and during the ensuing funding year(s), a change in that vendor's capability to provide the necessary service may be cause to seek E-rate approval to replace the service provider via an operational SPIN change. Note:
 - a. An actual, as opposed to the potential, change in a vendor's capability to provide service may be necessary to support a SPIN change. For product purchases, we have not tested USAC's willingness to consider future product support concerns as a basis for a SPIN change.
 - b. Remember that operational SPIN changes require the new vendor's selection to be determined based on the original bid assessment's next highest scoring bidder. Retention of bid documentation is key.
3. The critical issue after a funding year is invoicing. As long as the service provider remains in business, service provider discounts via a SPI should not be a problem. Under current rule interpretations, however, BEAR reimbursements could be problematic if the service provider is out of business. Although reimbursement payments no longer flow through the service providers, USAC will not process payments directly to applicants if the associated service provider has not filed a current Form 473 ("SPAC") for that funding year. Note:
 - a. If a service provider went out of business prior to implementation of the new direct BEAR payment process, the somewhat cumbersome solution was to get another provider to step in to facilitate payment as a "Good Samaritan." This process is no longer needed or available.
 - b. At least one Request for Review and/or Waiver has been filed with the FCC to reverse or circumvent the SPAC requirement for BEAR reimbursements.

USAC News Brief Dated January 27 – Profile Updates and Pre-FY 2016 FRN Changes

USAC's [Schools and Libraries News Brief of January 27, 2017](#), provides additional information on USAC's ongoing process for updating applicant entity profiles. It also discusses new procedures for submitting FRN changes for FY 2015 and earlier funding years.

Profile Updates in EPC, Part 3:

USAC continues to provide information about the process it has implemented to update applicant EPC entity profiles with data USAC validated during the FY 2016 PIA application review process. The complicating factor is that applicants may have already updated their own entity profiles with data that may be overwritten with these USAC updates.

The News Brief indicates that applicants affected, or potentially affected, by updated USAC entity data have been, or will be, notified by email, whether or not those applicants had updated their own entity profiles. The two alternative situations are being addressed differently.

1. If the applicant had previously updated their entity data, USAC has presumably notified them that their changes would be overwritten unless the applicant requested USAC to refrain from doing so. The deadline for making that request — not broadly publicized outside of the individual applicant emails — was last Friday, January 26th.
2. If the applicant had not previously updated their entity data, USAC indicates that it will notify the applicants by email that it was going to update their profiles. However, in the one instance we've seen of this action, notification was made via an EPC News feed, not an email.



E-Rate Productivity Center Completed - Update Entity Profile Data from Review Process

This notification is to inform you that USAC has updated the EPC profile for your Billed Entity with the entity and discount data that was approved as part of your FY 2016 applications.

During the review of the FY 2016 applications, PIA reviewers gathered information regarding [REDACTED] BEN: [REDACTED] either by contacting you or using third party data sources, such as the state audited student and NSLP counts. We have ensured that either no updates were made to your profile by your staff since the FY 2016 application window closing or if there were any updates, we have got your confirmation for the profile update. Therefore, we have updated your entity's profile in EPC to match the discount and entity data from your approved FY 2016 applications.

The data in your profile will be used to automatically complete the parts of your FY 2017 E-rate applications regarding the discount rate and the entities in your organization. Since the data in your profile has been updated to reflect the approved data from last year, you only have to update the fields that have changed since the last funding year (for example, different student counts).

The updates made on your profile can be tracked through the "Modifications by System" section in the Entity's "Modifications" dashboard. If you do not have any such changes, then no further action is required on your part before you file your FCC Form 471 for FY 2017.

NEXT STEPS

1. Please check the information in your profile to ensure that it is complete and accurate.
2. If you have any questions about this update, please contact USAC's Client Service Bureau at (888) 203-8100.

[REDACTED]

Jan 13, 2017 ☆ 🔒 [Comment](#)

Once USAC completes all its entity profile updates, we expect that USAC will publicly announce the completion of this step, and give applicants a specified time period (perhaps a month) to review and update their entity profiles prior to the opening of the FY 2017 application window. This will become a critical period for applicants to make changes to their profiles, presumably before the profiles are locked down during the application window.

USAC strongly encourages applicants not to make changes to their entity profiles while USAC completes its update process. Somewhat confusingly, however, the News Brief indicates that applicants wishing to make changes now can do so, not by modifying their EPC profiles, but by informing USAC of those changes via the EPC RAL modification process. What is noted — but by no means stressed in the News Brief — is that RAL changes can be made only for applications in the “Certified” status mode, i.e., in the 8% of all applications that are still pending. Once an application is funded, its status changes to “Committed” and RAL changes are no longer an option.

It is very important that applicants carefully follow USAC’s entity profile procedures over the next couple of months. Once the FY 2017 application window opens, opportunities to correct entity profiles will be limited.

Form 500 and Other FRN Changes for FY 2015 and Earlier:

When the new EPC version of the Form 500 was first announced in late December, it appeared that its use was constrained for FY 2016. As we indicated in our [newsletter of January 2nd](#), however, EPC apparently supported a workaround permitting applicants to upload a copy of the earlier paper Form 500 for earlier funding years. The problem, as it turned out, is that OMB approval of the earlier Form 500, designated “December 2013,” expired at the end of 2016. For the past several weeks, there has been no official way to file a Form 500 for earlier FRNs.

That problem has now been solved. USAC has posted a new paper version of the Form 500, designated “December 2016,” that can be completed offline, scanned, and uploaded to USAC through EPC. The News Brief describes the upload process, paralleling the workaround steps described in our earlier newsletter. A [type-in version of the new Form 500](#) is available on E-Rate Central’s website.

Last week’s News Brief also discusses the process for submitting SPIN changes and service substitutions — two types of FRN changes not covered by the Form 500 — through the EPC Customer Service mechanism. The process will work for FRNs already committed for FY 2016 and for FY 2015 or earlier.

When submitting a service substitution case, use:

Topic *
Post Commitment Changes

Subtopic *
Service Substitution Questions

For SPIN changes, the Topic remains the same, but the Subtopic (not surprisingly) is “SPIN Change Questions.”

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 NCDPI.

Additional North Carolina specific E-rate information is available through our Web site — <http://www.e-ratecentral.com/us/stateInformation.asp?state=NC>. Note that this site provides easy access to formatted North Carolina applicant E-rate histories via the Billed Entity Number ("BEN") search mechanism in the upper left-hand corner. Detailed information can be obtained by "drilling down" using the links for specific funding years and individual FRNs.

For further information, follow E-Rate Central on Twitter, Facebook, and LinkedIn.



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