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## Funding Status – FY 2016 and FY 2017

Wave 33 for FY 2016 was released last Thursday, February 9<sup>th</sup>, for a total of \$61.1 million. Approximately 170 FCDLs were issued in Wave 33. Funding for North Carolina was \$14.2 million for 3 applicants, predominately for the large NCDPI statewide LEA application. Cumulative national funding through Wave 33 is \$2.15 billion, including \$95.1 million for North Carolina. Overall, 6.8% of all applications, representing about a third of the year’s potential funding, remain pending. Wave 34 is scheduled to be released on Wednesday or Thursday, February 15-16.

The FY 2017 application window will open on Monday, February 27<sup>th</sup>, at 12:00 noon EST and is scheduled to close on Thursday, May 11<sup>th</sup>, at 11:59 p.m. EDT. School and school district applicants needing to update their EPC entity profiles for FY 2017 application purposes must complete that process by Sunday, February 26<sup>th</sup> at 11:59 p.m. EDT (see our [newsletter of February 6<sup>th</sup>](#)).

## FCC Tweaks the FY 2017 ESL

On its own motion, the FCC granted two limited and related waivers to the category of service classifications established in the [FY 2017 Eligible Services List](#) (“ESL”). The FCC’s Order ([DA 17-151](#)) addresses two problems arising from new guidance included in the latest ESL that changed, or “clarified,” how connections between schools and libraries on the same property, or even in the same building, would be classified as Category 1 or Category 2. As a result of these changes, applicants were finding that services, previously considered Category 2, were now to be treated as Category 1. The switch raised two possible procurement issues that the FCC has now addressed with its waivers.

1. Connections between two contiguous school buildings, covered by an existing multi-year maintenance contract, would presumably have been procured originally as Category 2 on the applicant’s Form 470. If that service is now considered Category 1 for FY 2017,

there would be a category mismatch between how the service was procured in the original Form 470 and the service's new classification. To fix problems of this nature, the FCC agreed to waive mismatch violations for pre-existing multi-year contracts executed before the release of the FY 2017 ESL on September 12, 2016.

Note that the FCC did not extend the same waiver flexibility to voluntary extensions of existing multi-year contracts. Extensions will have to be rebid as a Category 1 service.

2. Under the FY 2017 ESL, connections between schools located in the same building — which could be as simple as a patch cable — were to be treated as Category 1. In one sense that could be an advantage because the cost of service/equipment would not have to come out of the schools' Category 2 budgets. From a procurement standpoint, however, the Category 1 classification seemed silly. Presumably, the connection would be — to use Category 1 language — “self-provisioned.” As such, the connection would have to be bid against a third-party provided service. To avoid this complication, the Order permits an applicant to elect to treat the connection as Category 2. This solves the procurement service problem at the expense of what should be a minor hit to the schools' Category 2 budgets. Note:
  - a. The Category 2 election applies only within a single building. Connections between different schools or libraries on the same property remain Category 1.
  - b. The election provision applies only to FY 2017. The FCC indicates that it will address the eligibility category of inside wiring between schools and libraries for future years in the public comment period for next year's ESL.

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

### *Form 470 and RFP Fiber Language:*

Applicants considering new broadband services potentially involving dark fiber and/or self-provisioned networks need to be extremely careful on their choices of Form 470 category drop down options and on the language used in Form 470 Narratives and/or associated RFPs. The latest USAC guidance provided in presentations to several user groups included the slide shown on the following page.

The key points to note, together with our interpretations, are the following:

1. Applicants seeking only a leased lit fiber service need not worry about other options. A “lit fiber” service, as defined for E-rate purposes, means that the carrier is providing a complete end-to-end circuit, including the terminating equipment on both ends to physically light the fiber. There is no requirement for the applicant to seek bids for alternative dark or self-provisioned fiber.
2. Applicants seeking bids for leased lit or dark fiber service — but not for self-provisioned fiber — should use those specific dropdown options only.

Universal Service Administrative Co. **FCC Form 470 Fiber Requests**

If you are seeking bids for...	Must also seek bids for . . .	Minimum drop down options that should be selected on FCC Form 470 . . .
Leased Lit Fiber (with or without special construction)	N/A	"Lit Fiber Service"
Leased Dark Fiber (with or without special construction)	Leased Lit Fiber	"Dark Fiber" "Lit Fiber Service"
Self-Provisioned Network*	Services Provided Over Third Party Networks (including, but not limited to, leased lit fiber).	"Self-Provisioning" "Transport Only – No ISP Service" *

**Posting Reminders:**

- \* "Transport Only – No ISP Service" is a technology neutral way of seeking support for bandwidth including, but not limited to, leased lit fiber. To select Leased Lit fiber only, would be insufficient.
- Don't forget that if you need Internet Access services, you must post for those separately if you are considering any of these options.
- Post for the Self-Provisioning services and construction on the same FCC Form 470.
- Remember to post for any Network Equipment and/or Maintenance and Operations services if needed.
- If you indicate you have an RFP, make sure the posted FCC Form 470 services are requested in the RFP.
- Post for the services you are seeking. It is not sufficient to only describe them only in the narrative.
- Providers searching the FCC Forms 470 for fiber opportunities should also review service requests posted under "Transport Only – No ISP Service."

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3. Use of the "Transport Only – No ISP Service" should be used only in connection with requests for self-provisioned services or if seeking transport only using anything but fiber e.g., copper and microwave.
4. When considering self-provisioned options we also recommend the following:
  - a. To provide additional flexibility in evaluating procurement options, in addition to "Transport Only-No ISP Service" bid for "Lit Fiber Service" and "Dark Fiber" as well. If a dark fiber provider bids on the "Transport Only-No ISP" it is unclear whether USAC would require the total cost of ownership comparison to "Lit Fiber Service". Therefore we recommend posting for all four service types (lit fiber service, dark fiber, self-provisoining, and transport only - no ISP service.)
  - b. Remember that self-provisioned services, particularly in remote areas, must evaluate non-fiber solutions such as broadband wireless (if such a provider bids). Be sure to include information in your RFP about the evaluation of these other transport-only solutions.

Applicants seriously considering new, non-lit, fiber systems should note FCC Commissioner [Michael O’Rielly’s letter](#) to USAC last week questioning E-rate “funding to overbuild existing broadband networks.” The letter comes close on the heels of his [appointment](#) as Chair of the Federal-State Joint Board on Universal Service, giving him a lead role on E-rate and the other Universal Service programs. Specifically, Commissioner O’Rielly expressed concern in the following two areas:

1. Permitting self-construction in areas where broadband is already commercially available, particularly when those existing networks may have been subsidized by other federal funding (e.g., the Universal Service high-cost program).
2. Funding for “backup” (or “duplicative”) networks.

As we have discussed in recent newsletters, both Commissioner O’Rielly and now-Chairman Pai cast dissenting votes on the FCC’s 2014 E-rate Modernization Orders. Tighter rules and funding restrictions may be forthcoming by FY 2018. In the interim, under current rules, the FCC might push USAC to exercise greater scrutiny of FY 2016 invoices and FY 2017 applications.

*New Form 471 Applications for FY 2016:*

Over the past few weeks, we’ve noticed 45-50 new Form 471s being added to the list of valid FY 2016 applications being reviewed by USAC. At least one reason for the new applications is a procedure developed by USAC — much to USAC’s credit — to facilitate funding requests for otherwise eligible equipment falling into the FY 2016 ESL’s gray zone between Category 1 and Category 2. Here is the PIA explanation of the problem:

**Other Issues**

*Issue*

USAC’s Program Integrity Assurance (PIA) team is currently reviewing your FCC Form 471 application, and we have identified an issue that we need you to help us resolve.

*What is the issue?*

On your form, you listed the products and services identified below on FRN [redacted] under the Category 1 Lit Fiber Special Construction service type. However, the service type needs to be changed to Category 2 Internal Connections service type to accurately reflect the products and services indicated on the Item 21 or other supporting documentation. This is an issue because Category One and Category Two services must be filed on their own separate applications.

Please read all of the questions, descriptions, and requests below. Please give enough detail, insight, and clarity to help the reviewers fully understand your specific situation.

If the applicant happens to have a Category 2 application still pending, the solution might be to switch the FRN from the applicant’s Category 1 application. At this stage in the FY 2016 application review cycle, however, this is unlikely. USAC’s creative solution is to allow the applicant to file a new Category 2 application, effectively waiving the Out of Window condition.

The PIA inquiry goes on to ask and explain the following:

#	Question	Response
1	Would you like to remove the charges identified above from FRN [redacted] and add them to a new Category Two FCC Form 471?	Yes
a	If Yes, please perform the steps listed below:	Below
	Create and certify a new FCC Form 471 by visiting <a href="http://www.sl.universalservice.org/menu.asp">http://www.sl.universalservice.org/menu.asp</a> for the products and services listed in the table above.  If the new FCC Form 471 is not filed and provided to us within the allotted 15 days on this letter, it will not be assigned the "In Window" status and it will not be reviewed.	Attached
	Provide the new FCC Form 471 Application Number:	[redacted]
Note	Once you provide the new FCC Form 471 Application Number, we intend to review the new application as if it was received within the FY2016 FCC Form 471 filing window. (Please ignore the FCC Form 471 Postmarked Outside of Window letter you may receive for the new Application.)  Also, FRN [redacted] will be denied since the products and services listed above are being moved to a new application.	N/A

This is a clever and fair solution to an otherwise difficult problem.

*Service Delivery Date Extension Reminder:*

USAC’s [News Brief of February 4<sup>th</sup>](#) and our [newsletter of February 6<sup>th</sup>](#) both discuss the use of EPC’s Form 500 to request a 12-month extension of the June 30<sup>th</sup> lighting deadline for new FY 2016 fiber construction. As we noted, June 30<sup>th</sup> is a potentially confusing deadline because it conflicts with the traditional September 30<sup>th</sup> service delivery deadline for all other non-recurring services.

At the moment, this important June 30<sup>th</sup> vs. September 30<sup>th</sup> distinction is not reflected in EPC. The same feature of the Form 500, by which an applicant can request an extension of either type of service delivery deadline, reads only as follows:

I want to request more time to get the services delivered and/or installed. ?

All service delivery requests must be submitted on or before **September 30** following the close of the funding year for non-recurring services including special construction for fiber and self-provisioned networks.

The follow-on questions, as well, are structured around the existing September 30<sup>th</sup> extension rules. Our advice: remember that special construction fiber projects have their own deadline. Be careful.

## **E-Rate Updates and Reminders**

*Upcoming 2017 E-Rate Deadlines:*

February 16 Form 486 deadline for FY 2016 funding committed in Wave 17. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (often July 1<sup>st</sup>), 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 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 4<sup>th</sup>](#)).

February 26 School and school district deadline for updating EPC profiles in preparation for the FY 2017 application window. USAC will lockdown entity profiles while the application window is open. It is critical for districts to make sure that new schools are added to their EPC profiles by this deadline.

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

## **USAC News Brief Dated February 10 – Preliminary FY 2017 Application Window Tips**

USAC’s [Schools and Libraries News Brief of February 10, 2017](#), provides the following application filing tips and reminders for FY 2017:

- Update school and district entity profiles by February 26<sup>th</sup>
- Add new contract information as available
- Add and/or update entity connectivity data

The News Brief also reminds applicants and service providers who requested invoice extensions for FY 2015 recurring services that the new deadline is February 27<sup>th</sup>.

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*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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