

- Funding Status – FY 2017 and FY 2016
- October 10: A Day of Recommitment or De-Commitment?
- Updates on USAC’s E-Rate Productivity Center and Legacy System
  - Invoice Deadlines and the FRN Extension Table
- E-Rate Updates and Reminders
  - Upcoming 2017 E-Rate Dates
  - FCC Finalizes ESL for FY 2018
  - FCC Voice Phase-Down Report
  - FCC Chairman Pai Confirmed for Second Term
  - USAC Fall E-Rate Training
- USAC News Brief Dated October 6 – Reminders on Upcoming Invoice Deadline

## **Funding Status – FY 2017 and FY 2016**

### *FY 2017:*

Wave 19 for FY 2017 was released Friday, October 6<sup>th</sup>, for a total of \$66.6 million. Funding for North Carolina was \$768 thousand for 6 applicants. Cumulative national funding through Wave 19 is \$1.43 billion, including \$48.3 million for North Carolina. Wave 20 is scheduled to be released on Thursday, October 12<sup>th</sup>.

### *FY 2016:*

Wave 64 for FY 2016 was released Tuesday, October 3<sup>rd</sup>, for a total of \$2.86 million. The cumulative national funding through Wave 64 is \$2.89 billion, including \$104 million for North Carolina. Wave 65 is scheduled to be released on Tuesday, October 10<sup>th</sup>.

## **October 10: A Day of Recommitment or De-Commitment?**

Tuesday will be the first day of USAC’s FY 2018 annual fall training workshops. USAC’s or the FCC’s responses — or lack of responses — to questions raised this year will help us understand where E-rate is going. Will the program get better, or are recent problems a disturbing harbinger of the future? From our perspective, the most contentious issues needing to be addressed are as follows:

1. Ongoing IT problems with both the EPC and non-EPC (or “legacy”) systems. The EPC system is handling the review and approval of FY 2017 applications well, but is having difficulty processing appeals, Form 486 corrections, SPIN changes, service substitutions, Category 2 budget adjustments, and various exceptions needing to be addressed by a growing proportion of applicants. EPC and legacy system problems have been discussed

weekly in our newsletters (and continue below). A graphic representation of EPC-related delays is shown in our [newsletter of September 18<sup>th</sup>](#).

2. Non-intuitive Form 470 guidance on bundled Internet service. As first discussed in its [Special Edition News Brief of August 22<sup>nd</sup>](#), USAC “simplified” the Form 470 drop-down options for requesting Category 1 services. At first glance, the “Internet Access and Transport Bundled” option seemed simple and sufficient enough for applicants seeking bids on bundled Internet service. Based on the revised [Form 470 User Guide](#) and subsequent USAC guidance, however, any applicant seeking bundled Internet must specify “Internet Access and Transport Bundled,” but if the transport is to be fiber, or the applicant is technology neutral (perhaps specifying only a bandwidth requirement), the Form 470 must also specify both “Leased Lit Fiber” and “Internet Access: ISP Service Only.” In other words, the applicant must effectively request both bundled and unbundled Internet service. According to USAC, Internet requests not posted in this fashion — effective August 26<sup>th</sup> when the new drop-down options became available — will be denied. We suspect that this guidance will come as a complete shock to many of Tuesday’s trainees.
3. Eroding support for dark fiber and self-provisioned fiber networks. The E-rate Modernization Orders, adopted in 2014, marked a new direction for E-rate, moving support away from legacy voice services, towards a focus on fiber network deployment and higher speed Internet. The new rules were designed to encourage applicants to pursue higher speed lit fiber services, dark fiber solutions, and applicant-owned (“self-provisioned”) fiber networks. New rules on “special construction” provided additional funding options to cover up-front construction costs. Throughout 2015 and 2016 — what now looks to have been the golden age of E-rate fiber support — USAC provided additional resources to both promote and review fiber RFP efforts. Beginning in April 2017, with the release of detailed questionnaires to applicants with fiber applications both pending and approved, the tone changed from promotion to inquisition (see our [newsletter of April 17<sup>th</sup>](#) and subsequent issues). Recently, several E-rate applicants have been advised of funding reversals after their networks have been built and funded. It is no longer entirely clear how the E-rate fiber rules are being interpreted, particularly when fiber cables are installed with extra strands that are not lit before the end of the funding year or are not for exclusive use of the applicant. The Q&A period following Tuesday’s fiber presentation should be lively.
4. Other COMADs. If the reversal of recent fiber approvals is not bad enough, consider the plight of several hundred applicants being asked to refund money disbursed ten years ago or more. In June, USAC began sending Commitment Adjustment (“COMAD”) letters to such applicants dealing with earlier audit results which had been in limbo awaiting USAC and FCC action. Late COMADs appear to be an ongoing problem. USAC’s [Semi-Annual Audit Recovery Report](#), issued late in September, indicates that “There are 41 beneficiary audits older than six months [many much older] with a potential recovery of [over \$28 million] for which Notification Letters have not been issued.” We expect at least one question asking politely whether there is any statute of limitations on the recovery of E-rate funds — to which we expect the FCC to answer “No.”

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

### *Invoice Deadlines and the FRN Extension Table:*

The first invoice deadline for FY 2016 services — as well as the first deadline for requesting invoice deadline extension requests (“IDERS”) — is Monday, October 30<sup>th</sup>. But this is not the deadline for all FY 2016 FRNs. More generally, FY 2016 invoice deadlines are governed by the following rules:

- Invoices (BEARs or SPIs) must be filed by the later of:
  - 120 days from the last date to receive services — 06/30/2017 for recurring services; 09/30/2017 for non-recurring services (unless extended until 09/30/2018); or
  - 120 days from the date of the associated Form 486 Notification Letter.
- Deadlines calculated by the 120-day rule, falling on a weekend or holiday, become the following business day.
- Upon request, USAC will automatically extend invoice deadlines once for IDERS received on or before the initial invoice deadlines.
- 120-day extended invoice deadlines are calculated from the date of the original invoice deadline (unadjusted for weekends and holidays).

Given the importance of invoice deadlines, and that their calculation is not always simple, it would be nice if USAC's tools — e.g., EPC, FRN Status Tool, FRN Extension Table, or online BEAR — always displayed the correct invoice deadline for every FRN. With the system problems USAC is experiencing, however, this is not the case.

USAC has indicated that the most reliable tool to use for FY 2016 invoices is — or will be by the end of October — the [FRN Extension Table](#). Two important points should be noted.

- The Table shows only those FRNs whose service delivery or invoice deadlines have been extended. It does not show the recurring service FRNs whose invoice deadlines are 10/30/2017, or non-recurring service FRNs whose invoice deadlines are 01/29/2018.
- As of last week, the Table does not yet show most FRNs with automatically extended non-recurring service delivery deadlines, nor FRNs with Form 486 Notification Letters dated after June 30<sup>th</sup>.

When in doubt, we suggest calculating 120-day invoice deadlines yourself. The basic calculation process, using the first two cells in an Excel spreadsheet, is as follows:

- In A1, enter the starting date (the last day to receive service or the Form 486 Notification Letter date).
- In A2, enter the formula “=A1+120.”
- Manually correct for weekends and holidays.

## E-Rate Updates and Reminders

### *Upcoming 2017 E-Rate Dates:*

October 9 Form 486 deadline for FY 2016 funding committed in Wave 50. 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. Upcoming Form 486 deadlines for funding commitments received in later waves include:

Wave 51	10/18/2017
Wave 52	10/30/2017

Applicants missing these (or earlier) deadlines should watch carefully for “Form 486 Urgent Reminder Letters” in the “Notifications” section of EPC. The Reminders will afford applicants with 15-day extensions to submit their Form 486s without penalty.

October 23 Initial comments due on the FCC’s inquiry on revisions to Category 2 budgets (see below). Reply comments are due November 7<sup>th</sup>.

October 30 Invoicing deadline for FY 2016 recurring services. (Note: The normal October 28<sup>th</sup> deadline falls on a Saturday pushing this year’s actual deadline to the following Monday.) Requests to extend this deadline, if needed, will be automatically granted by USAC if filed on or before this date.

October 30 First Form 486 deadline for FY 2017 FRNs approved in Waves 1–5.

### *FCC Finalizes ESL for FY 2018:*

The FCC released the final version ([DA 17-973](#)) of the Eligible Services List (“ESL) for FY 2018. With two exceptions, for which the FCC sought comments in the draft ESL issued last June, the ESL for FY 2018 is essentially the same as for FY 2017. The changes are as follows:

1. A small section has been added to address “Network Equipment with Mixed Eligibility.” “Eligibility,” in this case, refers to whether such equipment may be supported as Category 1 or Category 2, not whether the equipment is E-rate eligible at all. To the extent LAN-enabling equipment costs can be isolated and allocated out of a Category 1 request, those costs are presumably eligible as Category 2.

<p><b>Network equipment with mixed eligibility</b> – On-premises equipment that connects to a Category Two-eligible LAN is eligible for Category One support if it is necessary to make a Category One broadband service functional. If the price for components that enable the LAN can be isolated from the price of the components that enable the Category One service, those costs should be cost-allocated out of the Category One funding request.</p>
---

The Category 1–2 distinction is important because Category 2 costs are subject to 5-year budget constraints, while Category 1 costs are not. The FCC declined to provide a list of specific Category 1 equipment, or even network diagram examples, as being “unnecessarily limiting.” Based on this language alone, the FCC would appear to be

indicating broad flexibility in defining Category 1 equipment. In practice, however, USAC has taken, and will likely continue to take, a narrow interpretation on Category 1 eligibility.

2. Consistent with a waiver provided for FY 2017, the new ESL now formally indicates that inside wiring connecting different schools or libraries sharing a single building should be treated as Category 2. The additional ESL language is highlighted below.

**Connections between buildings of a single school** – The classification of connections between multiple buildings of a single school is determined by whether the buildings are located on the same campus. A “campus” is defined as the geographically contiguous grounds where the instructional buildings of a single eligible school are located. A single school may have multiple campuses if it has instructional buildings located on grounds that are not geographically contiguous. Different schools located on the same grounds do not comprise a single campus. The portion of the grounds occupied by the instructional buildings for each school is a campus for that school.

- Connections between buildings on different campuses of a single school are considered to be Category One digital transmission services.
- Connections between different schools with campuses located on the same property (e.g., an elementary school and middle school located on the same property) are considered to be Category One digital transmission services, **unless they share the same building.**
- Connections between buildings of a single school on the same campus are considered to be Category Two internal connections.

Although the Category 2 treatment of connections between schools in a single building may have a small and adverse impact on 5-year budgets, it avoids the seemingly ridiculous competitive bidding Category 1 complications of lease/buy decisions for short wired connections. Note, however, that there is still a difference in the treatment of connections between multiple buildings on the same property — Category 1 for different schools; Category 2 for the same school.

As is not uncommon in an ESL proceeding, the FCC declined to:

- Add new services as eligible.
- Permit support for overlapping service when transitioning from one provider to another.
- Provide additional clarification on duplicative services.

#### *FCC Voice Phase-Down Report:*

The phase-down of discounts for voice services began in FY 2015. The first E-rate Modernization Order ([FCC 14-99](#)), which initiated this process, ordered the Wireline Competition Bureau (“WCB”) to report on the impact of the gradual reduction of these discounts on E-rate recipients after the completion of FY 2016. The resulting report ([DA 17-963](#)) was released on schedule last week. The report focuses primarily on the impact on applicants receiving voice discounts in FY 2014. In particular, the report shows:

- Overall, funding increased in FY 2015 and FY 2016 for these applicants. Discounts on voice services declined as expected, and commitments on non-voice Category 1 services remained constant. The increases were due to Category 2 funding.
- Of the applicants who received only voice service discounts in FY 2014, 71% were still participating in E-rate in FY 2017 (if only as consortium members for other services).

What the report does not contain are any conclusions that might lead the FCC to reverse its stance on voice services. Absent FCC action to the contrary prior to the opening of the FY 2018 application window, the phase-down will continue. By FY 2019, no voice service discounts will be available for any applicants, regardless of poverty level.

#### *FCC Chairman Pai Confirmed for Second Term:*

The U.S. Senate has [confirmed](#) current FCC Chairman Ajit Pai to serve on the Commission for a second five-year term, extending his term from the end of this year until December 2022.

#### *USAC Fall E-Rate Training:*

USAC's annual fall training is being provided on a more limited basis than in previous years. Although monthly webinars are planned, on-site training is available only in the following locations:

- October 10 [Washington DC area](#) (Chevy Chase, MD)
- October 24 [Charlotte, NC](#)
- November 2 [Minneapolis, MN](#)
- November 14 [Portland, OR](#)

#### **USAC News Brief Dated October 6 – Reminders on Upcoming Invoice Deadline**

[USAC's Schools and Libraries News Brief of October 6, 2017](#), reminds applicants and service providers of the October 30<sup>th</sup> invoice deadline for FY 2016 recurring services. For applicants planning to file for BEAR reimbursements, the News Brief discusses the following preliminary steps:

1. Verify that you have not been receiving discounted bills from your service provider. If bills have been discounted, the service provider would (or should) have been filing service provider invoices ("SPIs").
2. If BEARs due October 30<sup>th</sup> cannot be filed on time, submit an invoice deadline extension request ("IDER") by that date.

For those new to the BEAR submission process:

3. Request a Personal Identification Number ("PIN") needed to access the [online BEAR system](#).
4. Complete and certify a Form 498 to provide online banking account information to USAC for electronic payments.
5. For Form 498 approval, provide verification of your banking information to USAC.

---

*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.*



*If you have received this newsletter from a colleague and you would like to receive your own copy of the North Carolina E-Rate Forum, send an email to [join-ncerate@lists.dpi.state.nc.us](mailto:join-ncerate@lists.dpi.state.nc.us). Please include your name, organization, telephone, and e-mail address.*

*In compliance with federal law, the NC Department of Public Instruction administers all state-operated educational programs, employment activities and admissions without discrimination because of race, religion, national or ethnic origin, color, age, military service, disability, or gender, except where exemption is appropriate and allowed by law.*