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FY 2018 Application Window

USAC issued a [Special Edition News Brief on December 14th](#) announcing the FY 2018 Form 471 Application Window. The Window will:

- Open Thursday, January 11, 2018 at 12:00 noon EST.
- Close Thursday, March 22, 2018 at 11:59 p.m. EDT.

The other key date and time to note in this announcement is the day preceding the opening. As of Wednesday, January 10 at 11:59 p.m. EST, USAC will lock every applicant’s entity profile for the duration of the Filing Window. Any changes applicants need to make to their entity profiles — most importantly student enrollment and NSLP eligibility data — for the FY 2018 application cycle must be made before the profiles are locked.

Funding Status – FY 2017

Wave 29 for FY 2017 was released Thursday, December 14th, for a total of \$42.8 million. Funding for North Carolina was \$1.23 million for NCDPI. Cumulative national funding through Wave 29 is \$1.99 billion, including \$67.8 million for North Carolina. Wave 30 is scheduled to be released on Friday, December 22nd.

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

FCC Criticism of USAC's IT Systems:

FCC Chairman Pai sent a [letter to USAC](#) last week asking the USAC Board to “redouble its efforts” in the areas of information technology and security. Most specifically, the letter noted:

Recent events highlight oversight and management problems throughout USAC's technology programs. These persistent challenges have caused delays that have impacted important FCC deadlines, including having a fully functioning E-Rate Productivity Center for the FY2017 funding year...Given the critical nature of USAC's information systems to the proper function of USF, the inability of USAC to deliver secure and functional systems creates a significant risk to the success of USAC and the FCC.

To be fair, the letter might have mentioned the complicity of the FCC — under both Administrations — in causing EPC problems. The FCC not only directed USAC to expedite the implementation of EPC, without allowing a reasonable period for development, but it continued to push USAC to transition applicant forms into EPC in advance of the system's corresponding ability to process those forms.

New USAC Guidance on Category 1 Form 470 Options:

USAC has posted, but not yet publicized, a [Reference Table for FCC Form 470 Category One Drop-Downs](#). The table provides additional and long-awaited USAC guidance concerning which Form 470 menu options must be used (for Form 470s filed on or after August 26, 2017) when requesting various combinations of transport and Internet services. The table also notes which combinations of requested transport services affirmatively require uploaded RFP documents.

The descriptions of the requested combinations, shown in the column labeled “If you are seeking,” need to be read carefully. The parenthetical text in the descriptions is critically important. In particular, note:

- The “Leased Lit Fiber” option includes both fiber transport and bundled Internet.
- If there isn't a preferred mode of transport, two menu options should be specified, “Internet Access and Transport Bundled” and “Leased Lit Fiber.”

Additional details on the Form 470 menu options for requesting Internet service, including suggestions for Narrative language, can be found in E-Rate Central's [December 11th newsletter](#).

E-Rate Updates and Reminders

New CEO for USAC:

USAC nominated, and [FCC Chairman Pai approved](#), the appointment of Radha Sekar as the Chief Executive Officer of USAC. USAC's previous CEO, Chris Henderson, had abruptly resigned last May; Vickie Robinson has been serving as Acting CEO in the interim. Ms. Sekar has a [background](#) in technology and finance, most recently with the Farm Services Agency.

Chairman Pai’s letter to the USAC Board, referenced above, notes that Ms. Sekar’s nomination was made “in large part because of her extensive experience leading organizations facing information technology challenges.”

Upcoming 2017 E-Rate Dates:

December 18 Form 486 deadline for FY 2017 funding committed in Wave 12. Upcoming FY 2017 Form 486 deadlines include:

Wave 13	12/26/2017
Wave 14	01/02/2018
Wave 15	01/08/2018
Wave 16	01/15/2018

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

January 10 Close of the EPC Administrative Window. As of 11:59 p.m. EST, EPC entity profiles will be locked. Applicants will not be able to update their profiles (e.g., with student NSLP data) until after the close of the Form 471 Application Window.

January 11 The FY 2018 Application Window opens at 12:00 noon EST. The Form 471 Window will close at 11:59 p.m. EDT on March 22, 2018.

FCC Decision Watch – Net Neutrality and Funds Recovery:

The FCC issued three orders last week that, if not directly related, may have educational and/or E-rate implications.

Net Neutrality:

The most important — and most controversial — was the FCC’s [adoption](#) of an Order ending net neutrality protections. We expect the full Order to be published shortly. The previous net neutrality rules were put in place less than two years ago under the Democratic-controlled FCC. Those rules placed Internet service providers (“ISPs”) under more strict Title II regulations and, more specifically, required ISPs to treat all Internet content equally. The new Order essentially restores the pre-2015 regulatory framework, eliminating Title II regulations and relying more fully on market forces (with oversight by the Federal Trade Commission).

Strong — indeed strident — arguments were made on both sides of the issue. The FCC received a record 24 million comments on the topic — not to mention those of the Commissioners themselves — warning of dire consequences if net neutrality was or was not eliminated. Generally, the educational community opposed the change. CoSN (the Consortium for School Networking), for example, argued that “Absent the net neutrality guardrails, school systems will now face a bleak reality: reduced choices, higher prices and fewer innovative tools.” Given that

the net neutrality rules had only been in place for two years, and that carriers servicing schools and libraries are bound by additional Lowest Corresponding Price (“LCP”) E-rate provisions, these fears may be overstated.

Our concern is more political. The level of discord among the Commissioners — leading to a vote along strictly party lines — was beyond historic precedent. The entire process, as expressly noted by one Commissioner was “ugly.” Our hope is that future decisions on E-rate will not be driven by the same rancor.

Funds Recovery:

The FCC issued two decisions last week to recover funds disbursed well in the past. In both cases, as it has done consistently, the FCC rejected any notion of a statute of limitations in such proceedings.

The recovery period in the one E-rate decision ([DA 17-1206](#)) was the longest we’ve ever seen. It traced back to FY 1998, the first year of the program, after USAC subsequently found that the applicant, a school serving students with disabilities, had been improperly funded for internal connections in dormitory facilities. In reaching its decisions, the FCC not only reiterated its position that USAC is not time-barred from recovering funds, but it rejected an argument for retroactivity in that services to similar residential buildings are now deemed eligible under the FCC’s Sixth Report and Order ([FCC 10-175](#)).

The second decision ([FCC 17-162](#)) similarly rejected an appeal for a longstanding violation, but involved the high-cost, not E-rate, program. It did, however, have two E-rate worthy aspects.

1. A separate statement by Commissioner O’Rielly supported the decision, in part because “the misconduct was egregious.” Nevertheless — with apparent reference to a recent rash of old funding year E-rate recovery actions — Commissioner O’Rielly expressed sympathy for affected applicants, stating:

At the same time, I have heard complaints that USAC has been attempting to recoup certain overpayments from a decade ago that reportedly resulted from ministerial errors rather than fraud - the type of situation where the steps to obtain recovery at this point may cost more than the funding at stake. Moreover, recipients that obtained funding that long ago may not have been under an obligation to retain records for that length of time, relevant personnel may no longer be found, and rules now in place may not have been applicable that far back in the past. Make no mistake: I abhor any waste, fraud or abuse caused by wrongdoers and fully support the recoupment of such funds. However, I am sympathetic to the view that the Commission generally should be required to recover funding within a defined timeframe, such as 7 years. Certain timing limitations imposed on the Commission, like those that exist in other areas, would not wholly prevent the exercise of oversight or imposition of enforcement actions when needed. To the extent that would require clarification or direction by Congress, that could be a welcome improvement.

2. The decision also contained an implicit warning about the importance of filing fully-supported appeals, waivers, and petitions for reconsideration within the prescribed 30- or 60-day filing windows. We have occasionally seen E-rate applicants, running up against the appeal window deadline, filing a barebones appeal on time, then supplementing the initial filing in more detail later. In this case, the appellant had filed four supplements well after the window. The FCC rejected two of them stressing that “strict enforcement of filing deadlines is ‘both necessary and desirable’ to avert the ‘grave danger of the staff being overwhelmed by a seemingly never-ending flow of pleadings.’” The footnote further indicated that “The D.C. Circuit Court of Appeals has also generally discouraged the Commission from accepting late petitions in the absence of extremely unusual circumstances.”

California Wildfire Request:

The FCC issued a Public Notice ([DA 17-1192](#)) seeking comment on a request submitted by the California Department of Education request for waiver of certain E-rate rules and program requirements for schools affected by the State’s extensive wildfires. Comments are due January 11th; reply comments are due January 26th.

Proposed USF Contribution Factor for 1Q18:

In another action, the FCC issued a Public Notice ([DA 17-1203](#)) announcing the proposed Universal Service Contribution Factor of 19.5% for the first calendar quarter of 2018. The quarterly contribution factor represents the percentage of interstate and international telecommunications revenues to be paid by carriers and other contributors into the Universal Service Fund (“USF”). The higher the percentage goes, the more politically sensitive becomes USF funding and the underlying programs, including E-rate. Next quarter’s rate of 19.5%, up from 16.7% a year ago, is uncomfortably close to a landmark setting 20%.

The percentage rate is driven not only by the numerator, USF program expenses, which are increasingly subject to FCC caps, but by the denominator, telecom revenues, which have been falling. The FCC has had a proceeding underway for over five years to consider new sources of contributions, but has made little progress on coming up with a long-term solution to this problem.

USF Funds Transfer to the Treasury:

Recipients of USF funds, including BEAR reimbursements for E-rate applicants and SPI payments for service providers, are beginning to receive emails from USAC with the following message:

USF Funds Will be Transferring to the U.S. Treasury: How Recipients Will be Paid

The purpose of this notice is to alert you to upcoming changes in the method of receiving Universal Service Fund (USF) payments from USAC. In the second quarter of 2018, USAC will move its banking services for the USF from its current banking institution to the U.S. Treasury. After the transfer, USAC will no longer accept payments to, or distribute funds from, its current bank account. Instead, USAC will process payments and distributions through the U.S. Treasury. This is not a change to USAC's administration of the USF.

How USAC Will Pay USF Recipients (after banking services are moved to the U.S. Treasury):

For those receiving payments from USAC, no changes are needed at this time. Payments will continue to be made via Automated Clearing House (ACH) transfers and will continue to be identified as coming from USAC.

Further Information

In early 2018 we will provide additional information on the exact timing of the transfer to the U.S. Treasury. Transfer information will be posted [here](#). Please contact [Customer Support](#) with any questions about the transfer, using the subject line "Treasury."

The move to transfer USF funds, currently held in commercial banks, to the U.S. Treasury is being made, in part, on the recommendation of OMB. It is expected to take place next April. Once the transfer is made, electronic transfers to the recipients will henceforth come from the Treasury. This may require some recipients to update "originator" codes in their bank accounts, but should otherwise be transparent. As indicated in the emails, additional information will be provided next year.

E-Rate Training Material:

USAC's annual fall training sessions were held this year in Charlotte, Minneapolis, Portland, and Washington DC. Presentation slides for these training sessions are available [online](#). USAC also did a webinar last week entitled "[Applicant Training Highlights](#)." Other useful instructional videos and webinar recordings may be found in USAC's [Online Learning Library](#).

USAC News Brief Dated December 15 – Form 470 Reminders

[USAC's Schools and Libraries News Brief of December 15, 2017](#), provides the following Form 470 reminders:

- The Form 470 must be filed online in EPC.
- Some billed entity information must be completed in the applicant's EPC profile before filing a program form.
- Requests for Proposal ("RFPs") and/or associated RFP documents must be uploaded to the Form 470. Remember that USAC uses a broad definition of an "RFP."
- The Form 470 must be certified online before it is posted to the USAC website.
- A Form 470 receipt notification will appear in the applicant's EPC News Feed shortly after the form is certified.

- Service providers can view posted Form 470s either through EPC or with USAC's Form 470 download [tools](#).

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. Please include your name, organization, telephone, and e-mail address.

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