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Funding Status – FY 2019 and FY 2018

FY 2019:

The Form 471 application window is open. It will close at 11:59 p.m. EDT on Wednesday, March 27th.

FY 2018:

USAC issued Wave 45 for FY 2018 on Friday, February 15th, for $36.6 million. Cumulative funding as of Wave 45 is $2.17 billion, including $70.1 million for North Carolina.

FCC Releases Category 2 Experience Report

The Second E-rate Modernization Order (FCC 14-189), which extended the Category 2 budgeting approach out through FY 2019, directed the FCC's Wireline Competition Bureau ("WCB") to track and analyze Category 2 funding under the new process for the first four funding years (FY 2015 to FY 2018) and to report their findings to the Commission before the opening of the FY 2019 application window. The resulting report (DA 19-71), probably delayed slightly by January's government shutdown, was released last week.

The WCB report does not set forth new Category 2 budget rules for FY 2020 and beyond, which the FCC must still address before July 1st, but does represent the FCC staff's view of the success of the budgeting process to date and does recommend its continuation. As such, the report is the first formal indication from the FCC that Category 2 funding is likely to continue, at least at the same level and with much the same 5-year budget mechanism. In particular:

1. The report specifically recommends "that the Commission retain the category two budget approach." It discusses four ways in which the Category 2 budget process has worked better than the preceding two-in-five rules, namely:

    a. More internal connections funding has been committed in the past four years (FYs 2015–2018) than over the previous five years. Unlike the earlier years, there have been no denials for lack of program funding.

b. Internal connections funding under the Category 2 approach has been more widely disbursed. "More than six times as many schools and ten times as many libraries per-year receive funding commitments than under the two-in-five rules."

c. The distribution of Category 2 funding has more closely approximated the composition of schools and libraries in the E-rate program. Previously, internal connections funding had been concentrated on higher discount schools in urban areas.

d. The Category 2 budget process "appears to provide more flexibility to applicants to plan for the deployment and maintenance of their networks in a way that best suits their needs."

The report concludes "that the category two budget approach is an effective means to ensure greater access to E-Rate discounts for internal connections."

2. In terms of the Category 2 funding level, the report concludes that the "budget approach is <u>generally</u> sufficient" (*emphasis added*), but perhaps may be insufficient "for schools and libraries at the funding floor, as well as libraries outside of highly-concentrated urban areas." As a result, the report recommends that the Commission consider "targeted changes" to the budgets, specifically mentioning an increase in the small entity budget floor initially set at $9,200 (before inflation) per site. The second part of the budget level conclusion suggests that the FCC might also consider raising the square-foot budget factor for more rural libraries.

3. One important aspect of the current budget situation not directly addressed in the report is the status of existing five-year budgets initiated after FY 2015. Recognizing that new FCC Category 2 rules could change any aspect of the current rules as of FY 2020, perhaps resetting budgets at that point, USAC has been reluctant to confirm that an applicant's "five-year" budget begun in FY 2017, for example, extends through FY 2021. Our own view is that applicants having started their budget cycles in FY 2016 or later will in no case be worse off than if their budgets continue for a full five years. Footnote 36 in the report appears to support this view indicating that "approximately 45,000 schools have two or more years remaining" to use their current budgets which implies continued support through FY 2020 and beyond.

4. One possible budget change not addressed in the report, but recommended by many applicants as the result of the FCC's call for comments (DA 17-921) on Category 2 budgets in 2017, was to set school budgets on a districtwide basis (or libraries on a systemwide basis). Currently there is no indication that the FCC is considering moving away from individual school or library budgets.

It is not immediately clear what steps the FCC will take next to implement new Category 2 funding rules for FY 2020 and beyond. It could issue a formal Notice of Proposed Rulemaking ("NPRM") and solicit additional comments, or it could deem the 2017 comments sufficient and issue new rules directly. What the FCC is unlikely to do, given the recommendations of this report, is to simply let the rules default to the old two-in-five process.

Our expectations are that the FCC will continue the five-year Category 2 budget approach, most likely with a few "targeted changes" for the better. Hopefully we will see FCC action on new rules sooner rather than later with new rules in place prior to the start of the next competitive bidding process beginning on July 1, 2019.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

February 19	Form 486 deadline for FY 2018 funding committed in Wave 28. 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 29	02/22/2019
Wave 30	03/04/2019
Wave 31	03/11/2019
Wave 32	03/18/2019

Note: Applicants missing any Form 486 deadline should watch carefully for "Form 486 Urgent Reminder Letters" in their EPC News Feed. These Reminder Letters afford applicants 15-day extensions to submit their Form 486s without penalty.

February 19	"Office Hours" USAC webinars — all level session on USAC data sources.
February 26	Extended invoice deadline for FY 2017 recurring services.
February 27	Last day to file a Form 470 to meet the minimum 28-day posting requirement prior to the close of the Form 471 application window.
March 18	Deadline for submitting comments to the FCC's NPRM (FCC 19-5) to permanently eliminate the amortization requirement on special construction charges (see our newsletter of February 4th). Reply comments are due by April 1st.
March 27	Close of the FY 2019 Form 471 application window.

USAC News Brief Dated February 15 – More Competitive Bidding Reminders

USAC's Schools and Libraries News Brief of February 15, 2019, is the third in a series of News Briefs discussing the Form 470 and the competitive bidding process (see also February 1 and February 8). Last Friday's News Brief reviews how service providers can locate and view specific Form 470s or can download summary information on multiple Form 470s. It briefly discusses the handling of supplier questions and applicant answers.

The News Brief also provides an update on the transition of review processing to Maximus Federal Systems, USAC's new Business Process Outsourcing ("BPO") contractor. By this time all open cases (including invoices, appeals, and post-commitment requests) should have been reassigned

and contact information for the new reviewers should have been provided to the applicable applicants or service providers.