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Funding Status – FY 2019 and FY 2020

FY 2019:

USAC released Wave 46 for FY 2019 on Thursday, February 13th. Funding in this wave totaled \$11.3 million, none for North Carolina. Cumulative commitments through February 13th are \$2.19 billion including \$76.1 million for North Carolina.

FY 2020:

The Form 471 application window for FY 2020 opened on January 15th and will close at 11:59 p.m. EDT on Wednesday, March 25th. PIA reviews are currently underway. As of last Friday, over 2,750 applications had already been designated as “Wave Ready.”

NPRM Comments on Suspensions and Debarments

Initial comments were received last week on the FCC’s Notice of Proposed Rulemaking (“NPRM”) regarding new rules on suspensions and debarments ([FCC 19-120](#)). As discussed in our [newsletter of December 2nd](#), the FCC is proposing to adopt “new procedures to provide the agency with broader and more flexible authority to promptly remove bad actors from participation” in the Universal Service Fund (“USF”) and other FCC programs. USF programs, including E-rate, currently operate under FCC-specific suspension and debarment rules covering a rather narrow range of conduct effective only in cases of civil judgements or convictions. The proposed new rules, already adopted by other federal agencies, would cover a broader range of misconduct and would give the FCC more flexibility to act expeditiously.

Comments to the NPRM from the E-rate community were limited, but detailed. The comments generally supported a more formal suspension and debarment process — noting that USAC, by placing certain applications and invoices on hold for extended periods, effectively already has its own informal suspension process in place — but expressed concern with procedural details as they might apply to the E-rate program.

The most extensive set of E-rate oriented comments were filed jointly by the Schools, Health & Libraries Broadband Coalition (“SHLB”) and the State E-Rate Coordinators’ Alliance (“SECA”).

The [SHLB/SECA comments](#), which would also apply to the Rural Health Care (“RHC”) program, made the following points:

- The rules should allow the FCC to take remedial suspension or debarment action without awaiting a final conviction or civil judgement (as is the case today).
- Suspension or debarment should be limited to instances of fraud or repeated willful violations and should not serve as a remedy for merely negligent or inadvertent conduct.
- USAC’s *de facto* suspension process should be eliminated.
- The proposed criteria for imputing conduct of an individual to an entire organization should be modified.
- The rules should clarify that incorrect advice given in connection with USF program rules — e.g. by USAC — should not in itself be grounds for suspension or debarment.
- Specific rules should be adopted to allow the FCC to prevent participants from entering into particular transactions (e.g., FRNs) rather than suspending or debaring the participant.
- The suggestion that the FCC would reject the application of a “primary tier” participant solely because a “lower tier” participant was convicted of fraud in another government program is alarming.
- The FCC should not be authorized to reject a transaction where it considers the disclosure of unfavorable information relating to a “lower tier” participant “so significant” that the transaction should be denied.
- Exceptions should be granted to allow excluded parties to participate in a transaction and the rules should spell out factors that the FCC may take into account when making that determination.
- The FCC should adopt a “limited denial of participation” mechanism as a parallel and more flexible alternative to suspension or debarment.
- Participants should be permitted to continue receiving services with a suspended or debarred provider for the duration of their contract.
- The rules should offer debarred participants an opportunity to reduce the period and scope of the debarment.
- Debarring officials should be permitted to fashion lesser remedies and/or to tailor the terms of a suspension or debarment.

The SHLB/SECA comments, made from an applicant’s perspective, were echoed by [immixGroup](#), an E-rate service provider. Several of the major telecommunications industry associations — e.g., [CTIA-USTelecom](#), [INCOMPAS/NTCA/ACA](#), and [NCTA](#) — submitted comments, which although not specifically E-rate oriented, also focused on the broad issues of fairness, transparency, and due process.

E-Rate Central also supported the FCC’s effort to modify the FCC’s existing suspension and debarment rules but took a somewhat different tack by focusing on the unfortunate aspects of USAC’s current reviews in difficult situations whereby applications disappear into “black holes,” sometimes for years, with no procedural protections. [E-Rate Central’s comments](#) encouraged the

FCC to broaden its consideration of new rules to provide greater transparency to the entire E-rate review process.

Clearly many of the proposed suspension and debarment rules need to be carefully reviewed and/or revised if they are to be fairly applied to the E-rate program. We expect that the initial comments will help raise the awareness of the suspension and debarment rules proceeding, and that we may see extensive reply comments which are due March 16th.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

February 21	Form 486 deadline for FY 2019 funding committed in Wave 30. More generally, the Form 486 deadline is 120 days from the FCDL date, or the service start date (typically July 1 st), whichever is later. Other upcoming Form 486 deadlines are: <table><tr><td>Wave 31</td><td>02/28/2020</td></tr><tr><td>Wave 32</td><td>03/06/2020</td></tr><tr><td>Wave 33</td><td>03/13/2020</td></tr></table>	Wave 31	02/28/2020	Wave 32	03/06/2020	Wave 33	03/13/2020
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Wave 32	03/06/2020						
Wave 33	03/13/2020						
February 25	Extended — and final — invoice deadline for FY 2018 recurring services.						
February 26	Last day to file a Form 470 and meet the minimum 28-day posting requirement prior to the close of the FY 2020 Form 471 application window.						
February 27	USAC webinar on service provider selection and the Form 471 application process.						
March 3	Due date for submitting reply comments on the FCC’s Notice of Proposed Rulemaking (“NPRM”) regarding national security threats (FCC 19-121).						
March 16	Due date for submitting reply comments on the FCC’s Notice of Proposed Rulemaking (“NPRM”) regarding new rules on suspensions and debarments (FCC 19-120).						
March 25	Close of the Form 471 application window for FY 2020 at 11:59 p.m. EDT.						

USAC News Brief Dated February 14 – RAL Modifications

[USAC’s Schools and Libraries News Brief of February 14, 2020](#), reviews the process for making application corrections after a Form 471 has been certified and the applicant has received a Receipt Acknowledgement Letter (“RAL”). Application changes can be made through EPC via the RAL modification function. The following options, submitted for consideration during the PIA review process, are available:

- Cancel an application.
- Modify basic contact information.
- Create an FRN or modify FRN details.

- Modify information on the billed entity or related entities.
- Upload a document to associate with the application requesting changes not otherwise included as RAL modification options.

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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.

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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