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Funding Status – FY 2020

Wave 18 for FY 2020 was released on Tuesday, September 1st for a total of $91.7 million including $10.5 million for 19 North Carolina applicants. USAC apparently moved up this wave's release from Thursday to Tuesday to maximize the amount of funding authorized by September 1st, the FCC's target date for completing funding for all "workable" applications.

Cumulative commitments are $1.54 billion including $48.5 million for North Carolina. Nationwide, USAC has now funded 85% of the FY 2020 applications representing 52% of the requested funding.

ESL Reply Comments Support Advanced Network Security Eligibility

Reply comments regarding the FCC's draft Eligible Services List for FY 2021 (DA 20-767), due last Friday, urged the FCC to make advanced network security technology eligible for E-rate funding. Broad support for this position was expressed by applicants (e.g., Lake County Public Library), service providers (e.g., Aruba and Cox Communications), state governments (e.g., Illinois Department of Commerce), consultants (e.g., Funds For Learning), and education coalitions (e.g., State E-Rate Coordinators' Alliance ("SECA")). As an interim measure, many comments also expressed support for an earlier-filed Cisco petition suggesting that the FCC use its waiver authority to make Category 2 support available for network security in funding years 2020 and 2021 consistent with the FCC's other COVID-related waivers.

SECA's reply comments were particularly interesting. SECA notes that the "basic" firewall limitation in the draft FY 2021 ESL, as it has been in every ESL since FY 2016, applies explicitly <u>only</u> to Category 1 services. Read this way, the ESL indicates that "Firewall services and components" — left undefined — are eligible as Category 2. SECA suggests that, without changing a word in the ESL, the FCC could expand E-rate funding for network security simply by providing guidance to USAC as to the limits, if any, of Category 2 firewall eligibility.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

October 12   Nomination deadline for six USAC Board members including one school representative.

FCC Extends Gift Rule Waiver to Year-End:

Earlier this year, as the full effect of the COVID-19 pandemic was becoming clear, the FCC issued a special waiver Order ([DA 20-290](#)) permitting E-rate applicants to accept free or reduced-priced hardware and/or services, used to support remote learning during the pandemic, without running afoul of the FCC gift rules (see our [newsletter of March 23rd](#)). As initially enacted, the waiver was to apply only through September 30th although the FCC had the foresight to indicate that it would "…monitor the situation and assess the need for continued relief in the future."

Since that time, given the ongoing nature of the pandemic, both SECA and SHLB had asked the FCC to extend the gift rule waiver through June 30, 2021 (see our [newsletter of August 10th](#)). Last week, the FCC took a step in that direction by extending the waiver though the end of this year ([DA-1021](#)). Additionally, recognizing that remote learning has increased the demand for on-campus Internet connectivity, the FCC specifically clarified that the waiver would permit schools and libraries to solicit or accept gifts of additional bandwidth in response to the pandemic without running afoul of the E-rate program rules.

The FCC also directed USAC to continue to provide 30-day extensions for applicants affected by the pandemic. to respond to USAC's PIA and other information requests.

FCC Identifies Carriers Using Huawei and ZTE Equipment and Services:

Last November, the FCC issued an Order ([FCC 19-121](#)) barring the use of Universal Service Fund ("USF") subsidies (including E-rate) to fund equipment, components, and services from "covered" companies deemed to provide a national security risk including, at the outset, Huawei and ZTE. As we noted at the time in our [newsletter of December 2nd](#), direct E-rate funding of Huawei or ZTE equipment had been minimal, but that many carriers used by E-rate applicants may be more broadly affected. The FCC's November Order directed its staff to collect information from the carriers as to their use Huawei or ZTE equipment and services. Since then there have been two developments of note for E-rate applicants, namely:

1. The draft ESL for FY 2021 (discussed above) includes a specific note regarding the ineligibility of equipment and services produced or provided by companies (currently Huawei and ZTE) designated as national security threats. (See also last Friday's USAC News Brief, referenced below, concerning the removal of these two companies from the supplier drop-down menus in the FY 2021 Form 470.)

2. Last week the FCC released a Public Notice ([DA 20-1037](#)) identifying a list of 51 eligible telecommunications carriers (or affiliates) that have reported using as least some Huawei and ZTE equipment or services in their networks. Although the carriers are ultimately responsible for removing and/or replacing such equipment and services, E-rate applicants

may want to be seeking certifications from existing suppliers or include language in bids for new services that any such situations are being or have been resolved.

FCC Streamlined Decisions:

The FCC issued another set of "streamlined" precedent-based decisions ([DA 20-964](#)) last week. Applicants facing similar problems as those addressed in these decisions may garner useful information by carefully reading the additional FCC explanations found in the footnotes. The original appeal and waiver requests can be found online in the FCC's [Search for Filings](#) under Docket 02-6.

In August's streamlined decisions, the FCC:

1. Dismissed:
    a. One Request for Review for an appeal that should have been filed with USAC.
    b. Three Petitions for Reconsideration relying on arguments that had already been fully considered and rejected.
2. Granted:
    a. Eleven Requests for Review allowing applicants to submit or resubmit documentation to support discount rates.
    b. Two Requests for Review overturning or otherwise correcting applicant discount rates.
    c. One Request for Waiver involving a timely-filed invoice initially rejected by USAC as the result of a late-filed vendor SPAC (Form 473).
    d. Nine Requests for Waiver for late-filed FY 2020 Form 471 applications filed within 14 days of the close of the window.
    e. Three-six Requests for Waiver for late-filed FY 2020 Form 471 applications filed less than 60 days (i.e., up to 59 days) late.
    f. Three Requests for Waiver for late-filed FY 2020 Form 471 applications due to COVID-19 circumstances beyond the applicants' control.
        Note: The difference between the three sets of late-filed Form 471 waivers appears to be as follows:
        i. Traditionally the FCC has granted 14-day late Form 471 filing waivers upon request for any reason.
        ii. This year the FCC has routinely granted 60-day late Form 471 waivers upon request citing any COVID-19-related reason.
        iii. Late-filed Form 471 waivers for 60 days or beyond have been granted to applicants only "due to circumstances beyond their control" — in these three cases for actual COVID-19 school closures.
    g. Ten Requests for Waiver or Review for ministerial and/or clerical errors including FRNs omitted from Form 471 applications.
    h. Two Requests for Review finding that USAC had erred in rejecting upfront payment invoices for services properly received during the funding year.

       i. One Request for Review and/or Waiver of the special construction service delivery deadline.

3. Denied:
    a. One Request for Review for failure to file a Form 470 for the current funding year.
    b. One Request for Review involving the improper involvement of the service provider in the competitive bidding process.
    c. Three Requests for Waiver for invoice deadline extension requests.
    d. Eleven Requests for Waiver of the Form 471 window — in many cases involving still unfiled applications.
    e. Three Requests for Waiver of the appeal/waiver deadline that "did not show special circumstances."

USAC News Brief Dated September 4 – Reminders for New EPC Users and BEAR Filers

USAC's Schools and Libraries News Brief of September 4, 2020, reminds users getting ready to access EPC or the BEAR form filing system for the first time that they will need to set up login credentials in the new One Portal system requiring multifactor authentication ("MFA"). The News Brief discusses the following:

- Creating an EPC account for prospective new EPC users.
- Requesting a PIN for first-time BEAR filers.
- Logging in to the One Portal system for the first time.
- Accepting the terms and conditions of use.
- Asking for assistance.

Users unfamiliar with the MFA process may find it useful to review our Illustrated Guide to USAC's New Multifactor Authentication Process, an expanded version of USAC's July 27th News Brief.

Last Friday's News Brief also notes that the drop-down supplier lists in the Form 470 for FY 2021 have been updated to remove all references to Huawei whose equipment and services are deemed a threat to national security and are no longer eligible for E-rate funding (see our newsletter of December 2, 2019). ZTE, also deemed a security risk, was never included as a Form 470 drop-down option.

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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 USAC, the 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.

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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