

## SUPPORTING STATEMENT

Note: This submission is being made pursuant to 44 U.S.C. 3507 of the Paperwork Reduction Act of 1995. In 1996 and 1997, the Commission adopted rules providing support for the Universal Service Schools and Libraries Support Mechanism (E-rate Program). FCC Forms 470 and 471 are required to determine eligibility by schools and libraries for discounts under the program, so that they can purchase telecommunications services, internet access, and internal connections. Subsequently, maintenance services were added to the categories of supported services.

### A. Justification:

1. The Commission created a universal support mechanism that would ensure that the goals of affordable, quality service, and access to advanced services are met by means that enhance competition. Among other things, the Commission adopted rules providing discounts on all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. Subsequently, maintenance services were added to the categories of supported services. To participate in the program, schools and libraries must submit FCC Forms 470 and 471.

On August 13, 2004, the Commission released the Fifth Report and Order, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, FCC 04-190 (Fifth Report and Order). Pursuant to the Fifth Report and Order and suggestions from the Department of Justice, the Commission implemented changes to its FCC Forms 470 and 471 in an effort to prevent waste, fraud, and abuse in the program. The changes were made to the FCC Forms 470 and 471 to make the E-Rate process more transparent, and to make transgressions of the law easier to detect and prosecute. The FCC also met the OMB Terms of Clearance issued in the Notice of Action dated March 23, 2003, by coordinating with the Department of Education (ED) on these forms.

Based on input from the Department of Education, the Commission made changes to its collection in 2004. The changes were made to the forms do not duplicate any of the collections that ED makes because the changes are all specific to the E-rate program. ED does not distribute funding pursuant to the E-rate program in any way and has no reason for requiring the certifications that were added to the revised FCC Forms 470 and 471.

Also, in the *Fifth Report and Order*, the Commission adopted a five-year record retention requirement. Specifically, both applicants and service providers are required to retain all records related to the application for, receipt and delivery of discounted services for a period of five years after the last day of service delivered for a particular funding year.

As noted in the *2007 Comprehensive Review of the Universal Service Fund Management, Administration and Oversight*, WC Docket Nos. 05-195, 02-60, 03-109 and CC Docket Nos. 96-45, 02-6, 97-21, FCC 07-150, the Commission is currently conducting inquiries to examine what additional data the Commission wants to collect and what changes should be made to the applicable forms.

- a. Submission of FCC Form 470 “Description of Service Requested and Certification.”

Schools and libraries ordering telecommunications services, Internet access, internal connections, and maintenance services under the universal service discount program must submit a description of the services desired to the Universal Service Fund (USF) Administrator. Schools and libraries may use the same description they use to meet the requirement that they generally face to solicit

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competitive bids. The Administrator will post those Form 470 forms that request new services on a website for all potential competing service providers to see and respond to as if they were Requests For Proposals (RFPs). See 47 CFR § 54.504(b).

Pursuant to section 254(h) of the Telecommunications Act of 1996, 47 U.S.C. § 254(h), as amended by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), schools and libraries must certify, the Form 470, under oath, *inter alia*, that:

- (1) the Form 470 is signed by the person authorized to order the supported services for the applicant;
- (2) the schools or libraries are an eligible entity under section 254(h)(4), and do not operate as for-profit businesses, and do not have endowments exceeding \$50 million;
- (3) the supported services are covered by a technology plan, or the applicant is properly exempted from having such a plan;
- (4) if the applicant is not exempted from having a technology plan, the technology plans have been appropriately approved;
- (5) the supported services will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value;
- (6) the schools and libraries will secure all supporting resources to use the equipment provided through the program;
- (7) all bids will be carefully considered and the bid selected will be the most cost-effective, with price being the primary factor considered. See 47 CFR § 54.504(b)(2).

b. Submission of FCC Form 471 “Services Ordered and Certification.”

Schools and libraries that have ordered telecommunication services, Internet access, internal connections, and maintenance services under the Universal Service Mechanism for Schools and Libraries must file FCC Form 471 with the Administrator. Form 471 requires schools and libraries to list all services that have been ordered and the funding needs for the current funding year. See 47 CFR § 54.504(c).

Pursuant to section 254(h) of the Telecommunications Act of 1996, 47 U.S.C. § 254(h), as amended by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), schools and libraries must certify in the Form 471, under oath, *inter alia*, that:

- (1) the Form 471 is signed by the person authorized to order the supported services for the applicant;
- (2) the schools or libraries are eligible entities under section 254(h)(4), and do not operate as for-profit businesses, and do not have endowments exceeding \$50 million;
- (3) libraries or library consortia do not operate as for-profit businesses, and their budgets are completely separate from any school;
- (4) the supported services are covered by a technology plan, or the applicant is properly exempted from having such a plan;

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- (5) if the applicant is not exempted from having a technology plan, the technology plans have been appropriately approved;
- (6) the schools and libraries will secure all supporting resources to use the equipment provided through the program;
- (7) the applicant has complied with all applicable FCC, state, and local procurement laws and policies;
- (8) all bids were carefully considered, and the most cost-effective bid was selected, with price being the primary factor considered;
- (9) the applicant recognizes that the discount level used for shared services is conditional;
- (10) the applicant recognizes that it must retain all records for five years, that it may be audited, and that, if audited, it will make its records available to the Administrator. *See* 47 CFR § 54.504(c)(1).

This form also gathers information from schools and libraries about the technology currently available to the entity and what is made possible by their application for universal service fund discounts. For schools ordering telecommunications services at the individual school level (*i.e.*, primarily non-public schools), the person ordering such services should certify to the Administrator the percentage of students eligible in that school for the national school lunch program (or other acceptable indicators of economic disadvantage determined by the Commission).

This requirement arises in the context of determining which schools are eligible for greater discounts being offered to economically disadvantaged schools. For schools ordering telecommunications services at the school district level, the person ordering such services for the school district should certify to the Administrator the number of students in each of its schools eligible for the national school lunch program (or other acceptable indicators of economic disadvantages).

This requirement also arises in the context of determining which schools are eligible for greater discounts being offered to economically disadvantaged schools. 47 CFR § 54.505. Similarly, libraries must make certifications about students eligible for national school lunch programs in nearby areas. *See* 47 CFR § 54.505.

c. Collection of the FCC Registration Number

Rule sections 47 CFR §§ 1.8002 and 1.8003 require all entities that participate in the schools and libraries universal service support mechanism to obtain an FCC Registration Number. Rule section 1.1910 of the Commission's rules (47 CFR § 1.1910) provides that the Commission shall withhold action on any application or request for benefits made by an entity that is delinquent in its non-tax debts owed to the Commission, and shall dismiss such applications or requests if the delinquent debt is not resolved.

This rule applies to any application that is subject to the Commission's FCC Registration Number (FRN) requirement, which includes applications by participants in the schools and libraries universal service mechanism.

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This requirement helps to prevent waste, fraud and abuse by strengthening incentives for beneficiaries and service providers to comply with the relevant statute and rules.

USAC<sup>1</sup> collects the FCC Registration Number so that it can dismiss any outstanding requests for funding commitments if a school or library, or service provider, as applicable, has not paid the outstanding debt, or made otherwise satisfactory arrangements.

As noted on the OMB Form 83i, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in sections 1, 4(i), 4(j), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended.

2. Respondents who order services eligible for universal service discounts must file FCC Forms 470 and 471. The purpose of this information is to help determine which schools and libraries are eligible for the greater discounts.

Schools and libraries must certify to the Administrator that they have developed an approved technology plan via Form 471. This requirement is designed to help schools and libraries avoid the waste that might arise from requests for services that the schools and libraries would be unable to use for the educational purposes intended.

3. Applicants will be able to electronically file or mail their submissions. Copies of the forms will be available via the Administrator's website.
4. There will be no duplication of information. The information sought is unique to each respondent and similar information is not already available.
5. Entities directly subject to the requirements in the forms are primarily schools and libraries. The forms have been designed to impose the least possible burden on the respondents.
6. Failing to collect the information, or collecting it less frequently, would prevent the Commission from implementing section 254 of the 1996 Act and ensuring that schools and libraries receiving discounted Internet access, Internet services, and internal connections are eligible to participate and are doing so in accordance with applicable rules and regulations.
7. Applicants are required to retain certain filings for five years. The records are needed in case the applicant is audited. If an applicant is audited, it should be able to demonstrate to the auditor how the entries in its application were provided.

8. The Commission published a public notice pursuant to 5 CFR § 1320.8, and a notice was also published in the *Federal Register* on July 23, 2007, 72 FR 42083. No comments were received in response to the notice. With respect to the 2004 Terms of Clearance:

- (1) The FCC has coordinated with other entities to ensure that this information collection does not duplicate information sought on other forms.
- (2) The FCC requests that the Form 471 should not be changed to delete the word "kickback." The Form 471 has been used for the past 3 years without any comment or complaint about the word

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<sup>1</sup> The Universal Service Administrative Company ("USAC"), an independent, not-for-profit corporation, was created to serve as the Administrator of the USF.

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“kickback.” To change the wording at this point would certainly cause confusion and might even cause some applicants to think that there is a new certification.

- (3) Applicants can apply for an FCC Registration Number (FRN) electronically through the FCC’s website.

9. There will be no payments or gift to respondents.
10. This has not changed—the Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests applicants to submit information that the respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR § 0.459 of the Commission’s rules.
11. This has not changed—there are no questions of a sensitive nature with respect to the information collected.
12. The following represents the hour burden on the collections of information:

- a. “Submission of FCC Form 470 “Description of Service Requested and Certification.”

- (1) Number of respondents: Approximately 50,000 public school districts, private schools and public library systems.

- (2) Frequency of response: On occasion reporting requirements.

- (3) Total Number of Responses Annually: 100,000 responses

Each school and library must submit FCC Form 470, describing the services desired, to the Administrator.

50,000 respondents x 1 FCC Form 470 filing/annum = 50,000 responses

Each school and library must also maintain records pertaining to the information on FCC Form 470 for five years.

50,000 respondents x 1 recordkeeping requirement/annum = 50,000 responses

50,000 reporting responses + 50,000 recordkeeping responses = 100,000 responses

- (4) Annual burden per response: 225,000 hours.

The Commission estimates that this requirement will take approximately four hours and that the 50,000 schools and libraries (respondents) will file FCC Form 470 once a year

50,000 respondents x 4 hours/FCC Form 470 submission/annum = 200,000 hours

The Commission also estimates that the 50,000 schools and libraries (respondents) will maintain records pertaining to the information they file on FCC Form 470 each year, as part of the five year recordkeeping requirement. We estimate that the recordkeeping requirement will take 30 minutes (0.5 hours) annually.

50,000 respondents x 0.5 hours = 25,000 hours

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200,000 hours + 25,000 hours = 225,000 hours

(5) Total “In House” Costs: \$11,914,671.88

The Commission estimates that respondents use staff equivalent to a GS-13/Step 5 (\$43.26/hour) Federal employee, plus 30% for administrative staff time and overhead, to complete and file FCC Form 470.

200,000 hours x \$43.26/hour = \$8,652,403.85

The Commission also estimates that respondents use staff equivalent to a GS-7/Step 5 (\$20.51/hour) Federal employee, plus 30% for administrative staff time and overhead, to comply with the five-year recordkeeping requirement.

25,000 hours x \$20.51/hour = \$512,728.37

\$8,652,403.85 + \$512,728.37 = \$9,165,132.21

30% overhead = \$2,749,539.66

Total: \$11,914,671.88

b. Submission of FCC Form 471 “Services Ordered, Certification, and Termination.”

(1) Number of respondents: Approximately 60,000 public school districts, private schools and public library systems.

(2) Frequency of response: Annually.

(3) Total Number of Responses Annually: 120,000 responses.

Each school and library must submit FCC Form 471, describing the services desired, to the Administrator.

60,000 respondents x 1 FCC Form 471 filing/annum = 60,000 responses

Each school and library must also maintain records pertaining to the information on FCC Form 471 for five years.

60,000 respondents x 1 recordkeeping requirement/annum = 60,000 responses

60,000 reporting responses + 60,000 recordkeeping responses = 120,000 responses

(3) Total Annual Hourly Burden: 300,000 hours

The Commission estimates that this requirement will take approximately 4.5 hours and that the 60,000 schools and libraries (respondents) will file FCC Form 471 once a year.

60,000 respondents x 1 submission/annum x 4.5 hours/form preparation = 300,000 hours

The Commission also estimates that the 60,000 schools and libraries (respondents) will maintain records pertaining to the information they file on FCC Form 471 each year, as part

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of the five year recordkeeping requirement. We estimate that the recordkeeping requirement will take 30 minutes (0.5 hours) annually.

60,000 respondents x 0.5 hours = 30,000 hours

270,000 hours + 30,000 hours = 300,000 hours

(5) Total “In House” Costs: \$15,984,825.00

The Commission estimates that respondents use staff equivalent to a GS-13/Step 5 (\$43.26/hour) Federal employee, plus 30% for administrative staff time and overhead, to complete and file FCC Form 471.

300,000 hours x \$43.26/hour = \$8,652,403.85

The Commission also estimates that respondents use staff equivalent to a GS-7/Step 5 (\$20.51/hour) Federal employee, plus 30% for administrative staff time and overhead, to comply with the five-year recordkeeping requirement.

25,000 hours x \$20.51/hour = \$512,728.37

\$8,652,403.85 + \$512,728.37 = \$9,165,132.21

30% overhead = \$2,749,539.66

Total: \$15,984,825.00

c. Collecting the FCC Registration Number from applicants.

(1) Number of respondents: Approximately 1,000 public school districts, private schools and public library systems.

(2) Frequency of response: Third party reporting requirement.

(3) Total Number of Responses Annually: 1,000 responses

Each school and library must provide the Administrator with their FCC Registration number—a 3<sup>rd</sup> party response.

1,000 public school districts, private schools, and public library systems x 1 response per request = 1,000 responses

(4) Total Annual Hourly Burden: 3 hours

The Commission estimates that the public schools, private schools, and public libraries (respondents) require approximately 10 minutes (0.0028) hours to provide their FRN to the Administrator.

1,000 public and private schools and public libraries x 0.0028 hours = 2.78 hours

(4) Total “In House” Costs: \$131.37.

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The Commission estimates that respondents will use staff equivalent to a GS-12/Step 5 (\$36.38/hour) Federal employee, plus 30% for administrative staff time and overhead, to provide their FRN to the Administrator.

2.78 hours x \$36.38/hour = \$101.06  
 30% overhead = \$30.32  
 Total: \$131.37

Total Number of Respondents: **60,000**

Total Number of Responses Annually: **221,000**

Total Annual Hourly Burden: **525,003 hours**

Total “In House” Costs: **\$27,899,628.25**

13. Total Annual Costs to Respondents:

(1) Total annualized capital/start-up costs: \$0.00.

The collections will not require the purchase of additional equipment.

(2) Total operation and maintenance and purchase of service component (O&M) costs: \$0.00.

The collections will not result in additional operation or maintenance expenses.

(3) Total annualized cost requested: \$0.00

14. There will be few, if any costs to the Commission because notice and enforcement requirements are already part of Commission duties. Moreover, there will be minimal cost to the Federal government since an outside party will administer this program.

15. The Commission notes the following changes to the information collection burdens:

(a) The percentage of those responses collected electronically has increased from 90% to 94%;

(b) The total number of responses annually has increased from 60,000 to 221,000 due to the five-year recordkeeping requirement established in the *Fifth Report and Order*; and

(c) The Commission has adjusted the total annual hourly burden to report an increase of 45,003 hour, from 480,000 hours to 525,003 hours, due to the release of the *Fifth Report and Order*, which added a five year recordkeeping requirement for respondents.

16. The Commission will make the information required by 47 CFR § 54.504 publicly available on the Internet. Other non-proprietary information will likely be made publicly available although the Commission does not have specific plans for doing so at this time.

17. The Commission seeks continued approval to not display the expiration date for OMB approval of the information collections. Display of the expiration date on the forms and instructions would not be in the public interest because, after the approval period, we would have to destroy all of the unused forms bearing the expiration date. This would constitute waste and would not be cost effective.



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18. The Commission notes that, pursuant to the *Fifth Report and Order*, applicants are required to retain certain records longer than three years. Applicants must retain records to be able to demonstrate to the auditor how the entries in their application were provided.

The Commission has increased the total annual hourly burden by 54,837 hours from the 470,166 hours estimate that was reported in the 60 day notice in the Federal Register. There are no other exceptions to Item 19 in OMB Form 83i.

**B. Collections of Information Employing Statistical Methods:**

The Commission does not anticipate that the collection of information will employ statistical methods.