

SUPPORTING STATEMENT

A. Justification

1. Title IV of the Americans with Disabilities Act of 1990 (ADA), adding section 225 to the Communications Act of 1934, as amended (Act), requires that:
 - (a) The Commission ensures that telecommunications relay service (TRS)¹ is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities in the United States;² and
 - (b) TRS offers persons with hearing and speech disabilities telephone transmission services that are “functionally equivalent” to voice telephone services.³

Video Relay Service

In March 2000, the Commission recognized Video Relay Service (VRS) as a form of TRS.⁴ VRS requires the use of a broadband Internet connection between the VRS user and the communication assistant (CA), which allows the VRS user and the CA to communicate in sign language via the video link. During the call, the CA communicates in American Sign Language (ASL) with the deaf person and by voice with the hearing person. As a result, the conversation between the deaf and hearing end users follows in near real time.

On May 27, 2010, in document FCC 10-88,⁵ the Commission released an *Order* adopting an interim rule – containing an information collection requirement -- designed to help prevent fraud and misuse in the provision of VRS. Though the *Order* emphasizes VRS, the rule also applies to all other forms of TRS.

Specifically, the interim rule requires the Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a relay service provider to certify, under penalty of perjury, that: (1) minutes submitted to the Interstate TRS Fund (Fund) administrator for compensation were handled in compliance with section 225 of the Act and the Commission’s rules and orders, and are not the result of impermissible financial incentives, or payments or kickbacks, to generate calls, and (2) cost and demand data submitted to the Fund

¹ TRS is a telephone transmission service that allows persons with a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. See 47 CFR 64.601(21). TRS facilities are staffed by communications assistants (CAs) who relay conversations between people who use text telephone devices (TTY’s) or other devices and people who communicate by voice.

² 47 U.S.C. § 225(b)(1).

³ 47 U.S.C. § 225(a)(3).

⁴ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5152-54, paras. 21-27 (2000); 47 C.F.R. § 64.601(26) (defining VRS).

⁵ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51. Declaratory Ruling, Order, and Notice of Proposed Rulemaking, 25 FCC Rcd 6012 (2010).

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administrator related to the determination of compensation rates or methodologies are true and correct.

On April 6, 2011, in document FCC 11-54, the Commission released an *Order* adopting final rules – containing several information collection requirements -- designed to eliminate fraud and abuse in the provision of VRS, and to ensure the sustainability and integrity of the TRS program and the TRS Fund.

The requirement in the *Report and Order* apply to only VRS providers wishing to seek waiver of the new rules so to continue providing VRS service. Potential providers wishing to seek waiver of the new rules are required to submit supporting documentation.

Required Submission for Waiver Request

Potential VRS providers wishing to receive a temporary waiver shall provide, in writing, a description of the specific requirement(s) for which it is seeking a waiver, along with documentation demonstrating the applicant's plan and ability to come into compliance with all of these requirements (other than the certification requirement) within a specified period of time, which shall not exceed three months from the date on which the rules become effective. Evidence of the applicant's plan and ability to come into compliance with the new rules shall include the applicant's detailed plan for modifying its business structure and operations in order to meet the new requirements, along with submission of the following relevant documentation to support the waiver request:

- a copy of each deed or lease for each call center operated by the applicant;
- a list of individuals or entities that hold at least a 10 percent ownership share in the applicant's business and a description of the applicant's organizational structure, including the names of its executives, officers, partners, and board of directors;
- a list of all of the names of applicant's full-time and part-time employees;
- proofs of purchase or license agreements for use of all equipment and/or technologies, including hardware and software, used by the applicant for its call center functions, including but not limited to, automatic call distribution (ACD) routing, call setup, mapping, call features, billing for compensation from the TRS fund, and registration;
- copies of employment agreements for all of the provider's executives and CAs;
- a list of all financing arrangements pertaining to the provision of Internet-based relay service, including documentation on loans for equipment, inventory, property, promissory notes, and liens;
- copies of all other agreements associated with the provision of Internet-based relay service; and
- a list of all sponsorship arrangements (*e.g.*, those providing financial support or in-kind interpreting or personnel service for social activities in exchange for brand marketing), including any associated agreements.

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The *Report and Order* requires potential providers to submit documentation when seeking a temporary waiver:

(a) To ensure that the certified providers are qualified to provide VRS in compliance with the Commission's rules and orders, including the mandatory minimum standards set forth in 47 CFR § 64.604 on an interim basis, and

(b) To determine whether potential providers are eligible to receive compensation from the Interstate TRS Fund.

These requirements would help the Commission and Fund administrator oversee VRS service in an effective manner and ensure that only entities are qualified to offer the service in compliance with the Commission's rules.

The Commission is seeking emergency approval from the Office of Budget and Management (OMB) for the waiver request information collection requirement listed above.

These information collections do not affect individuals or households, and thus, there are not impacts under the Privacy Act.

The statutory authority for information collection is found at section 225 of the Act, 47 U.S.C. § 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101-336, 104 Stat. 327, 366-69.

2. At this time, the Commission is not considering the use of improved information technology.
4. The information is not duplicated elsewhere.
5. There are no significant economic impacts on small businesses or small entities.
6. If the collections were not conducted, or conducted less frequently, the Commission and Fund administrator would have less of a basis to detect and prevent fraud and misuse in the provision of relay, and the public less of a basis to rely on the quality of relay service.
7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR § 1320.
8. Pursuant to 5 C.F.R. § 1320.8, the Commission will place a notice in the *Federal Register* seeking comment from the public on the emergency information collection requirement contained in this supporting statement. The public will have fifteen days to comment on the information collections contained in this collection.
9. The Commission does not anticipate providing any payment or gift to any respondents.
10. The Fund administrator keeps all data obtained from VRS providers confidential and does not disclose such information in company-specific form unless directed to do so by the Commission.
11. This information collection does not address any private matters of a sensitive nature.
12. Estimates of the burden hours to comply with the existing collection of information are as follows:

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Existing Information Collection requirement approved by OMB on January 27, 2011:

A. Provider Certification Under Penalty of Perjury

Annual Number of Respondents: 13

(1) The Commission estimates that each respondent will require approximately .017 hours (1 minute) to certify its submissions under penalty of perjury on a monthly basis.

Annual Burden Hours: 13 respondents x .017 hrs/response/month x 12 months/yr = 2.65 hrs/yr

Number of Responses: 13 respondents x 1 response/month x 12 months/yr = 156 responses/yr

(2) The Commission estimates that each respondent will require approximately .017 hours (1 minute) to certify its annual submission of cost and demand data under penalty of perjury.

Annual Burden Hours: 13 respondents x .017 hrs/response/year = 0.22 hrs/yr

Number of Responses: 13 respondents x 1 response/year = 13 responses/yr

Total Annual Number of Responses: 156 + 13 = 169 responses/yr

Total Annual Burden Hours: 2.65 hrs/yr + .22 hrs/yr = 2.87 hrs/yr (3 hours/year)

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/10, plus 30% overhead) for signing the certification.

The Commission estimates respondents’ costs to be about \$96.86 per hour to complete the requirements ($\$74.51 + (30\% \times \$74.51) = \$96.86/\text{hour}$).

3 hrs/yr x \$96.86/hour = \$290.58

Total “In-House” Costs: \$290.58

New Information Collection Requirement Seeking Emergency Approval:

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The Commission estimates that the current 15 companies that offer VRS as a subcontractor would apply for a temporary waiver.

B. Required Submission for Waiver Request

Annual Number of Respondents: 15

Annual Number of Responses: 15

Annual Burden Hours (one-time Burden): = 1,125 hrs

The Commission estimates each respondents will require approximately 75 hours per form of TRS offered to complete the request for a temporary waiver consisting of full and detailed information listed above in question 1, on page 2.

The application will be completed on a one-time basis.

➤ 15 respondents x 75 hrs per request = 1,125 hrs

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete the application for certification.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete:

Annual “In-House” Cost: 1,125 hrs x \$87.37/hr = \$98,291.25

Annualized Burdens -- Though respondents will incur the burdens estimated in this section on a one-time basis, for purposes of cumulative burden estimates, these one-time estimates are annualized over the three-year period for which the Commission seeks approval for this collection. Therefore:

Total Annual Number of Responses: 15/3 = 5 responses/yr)

Total Annual Burden Hours: 1,125hrs/3 = (375 hrs/yr)

Total Annual “In-House” Costs: \$98,291.25/3 = (\$32,763.75/yr)

Cumulative Totals:

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Total Annual Number of Respondents: $13 + 15 = 28$

Total Annual Number of Responses: $169 + 5 = 174$ responses/year

Total Annual Burden Hours: $3 \text{ hrs} + 375 \text{ hrs} = 378$ hours

Total Annual "In-House" Costs: $\$290.58 + \$32,763.75 = \$33,054.33$

13. Respondents may incur some cost associated with the preparation for completing the submission of the waiver request. However, providers will be reimbursed indirectly when they receive compensation from the Interstate TRS Fund for providing such services.

(a) Total annualized capital/start-up cost: \$0

(b) Total annual costs (operation and maintenance): \$0

(c) Total annualized cost requested: \$0

14. The Commission believes that the costs to the Federal government emanating from these proposed information collections will involve:

(a) initial staff review of the submissions of waiver requests; and

(b) senior staff review of issues identified and escalated from the initial staff review of information contained in these submissions.

(a) The Commission will use staff attorneys at the GS-14/5 level to review this information. The Commission estimates the time to review this information will be approximately 12 hours per waiver request on a one-time basis (15 requests x 12 hours = 180 hours).

$180 \text{ hrs} \times \$57.13/\text{hr} = \$10,283.40$

(b) The Commission will use staff attorneys at the GS-15/5 level to review escalated issues and information. The Commission estimates the time to review this information will be approximately 15 hours per waiver request on a one-time basis (15 requests x 15 hours = 225 hours).

$225 \text{ hrs} \times \$67.21/\text{hr} = \$15,122.25$

Total Cost to the Federal Government: $\$10,283.40 + \$15,122.25 = \$25,405.65$

15. This is a revision to a currently approved collection. If the emergency information collection requirement is approved by OMB, the following program change will be added to OMB's inventory for this collection as follows: +15 respondents; from 13 to 28 respondents; +5 responses; from 169 responses to 174 responses; +375 hours; from 3 to 378 hours; and \$0 annual cost.

16. There are no plans to publish the results of the collection of information.

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17. The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information.

18. There are no exceptions to Certification Statement.

B. Collections of Information Employing Statistical Methods

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