

SUPPORTING STATEMENT

New information collection: Application to Participate in an Auction for Mobility Fund Phase I Support, FCC Form 180

A. Justification:

The Federal Communications Commission (Commission) is seeking Office of Management and Budget (OMB) approval for a new information collection. We are submitting this collection to the OMB in order to obtain the full three year clearance.

1. *Circumstances that make the collection necessary.* On November 18, 2011, the Commission released the Connect America Fund & Intercarrier Compensation Reform Order, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208; FCC 11-161, which adopted rules to govern the Connect America Fund Mobility Fund (Mobility Fund). In adopting the rules, the Commission comprehensively reformed and modernized the universal service and intercarrier compensation systems to ensure that all Americans have access to robust, affordable broadband and advanced mobile services. Concluding that mobile voice and broadband services provide unique consumer benefits, and that promoting the universal availability of such services is a vital component of the Commission's universal service mission, the Commission created the Mobility Fund. Mobility Fund Phase I support will be awarded through a nationwide reverse auction. For Phase 1 of the Mobility Fund, the Commission provided up to \$300 million in one-time support to immediately accelerate deployment of networks for mobile broadband services in unserved areas. The Commission also established a separate and complementary one-time Tribal Mobility Fund Phase I to award up to \$50 million in additional universal service funding to Tribal Areas, including Alaska, to accelerate mobile broadband availability in these remote and underserved areas. The Commission will use a two-stage application process similar to the one used in spectrum license auctions. Based on the Commission's experience with auctions and consistent with the record, this two-stage collection of information balances the need to collect information essential to conduct a successful auction with administrative efficiency.

To implement the reform and conduct the reverse auctions, the Commission adopted new rules for the Mobility Fund which include new information collections. Therefore, the Commission is seeking approval by the Office of Management and Budget under the Paperwork Reduction Act of the information collections contained in the new rules. The Commission plans to submit at a later date additional revisions or new collections for OMB review to address other reforms adopted in the Order.

The Commission estimates that up to 250 parties may submit applications to participate in the competitive bidding for Mobility Fund support. The number of applicants will

vary, dependent on the number of Eligible Telecommunications Carriers and the number of areas available in the auction.

The following are the new collections of information required for all competitive bidding used to determine recipients of universal service support and specifically, for all competitive bidding used to determine the recipients of support available through Phase I of the Mobility Fund .

- a. *Application Contents.* Section 1.21001(b) requires parties to provide information in an acceptable form. The applicant must provide: the identity of the applicant, 47 C.F.R § 1.21001(b)(1); the identities of up to three individuals authorized to make or withdraw a bid on behalf of the applicant, § 1.21001(b)(2); the identities of all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding, § 1.21001(b)(3); certification that the application discloses all real parties in interest to any agreements involving the applicant's participation in the competitive bidding, § 1.21001(b)(4); certification that the applicant and all applicable parties have complied with and will continue to comply with § 1.21002, § 1.21001(b)(5); certification that the applicant is in compliance with all statutory and regulatory requirements for receiving the universal service support that the applicant seeks, § 1.21001(b)(6); certification that the applicant will make any payment that may be required pursuant to § 1.21004, § 1.21001(b)(7); certification that the individual submitting the application is authorized to do so on behalf of the applicant, § 1.21001(b)(8); and additional information as may be required, § 1.21001(b)(9). Section 54.1003(b) requires applicants to have access to spectrum in areas that enables it to satisfy the applicable performance requirements. The applicant must provide a certification that it has such access at the time it applies to participate in the auction and that it will retain such access for five (5) years after the date on which it is authorized to receive support.
- b. *Financial Requirements for Participation.* Under section 1.21001(c) an applicant may be required, as a prerequisite to participating in competitive bidding, to post a bond or place funds on deposit with the Commission. If a deposit is required, applicants may be required to submit an FCC Form 159 and/or an attachment to its FCC Form 180. FCC Form 159 is a remittance advice form that applicants/licensees file when making payment(s) to the Commission, including auction payments. The OMB approval for the FCC Form 159 is contained in 3060-0589.
- c. *Application Processing.* Section 1.21001(d) requires certain application processing procedures. The procedures require applications to participate in competitive bidding for support to be reviewed for completeness and compliance with the Commission's rules, 47 C.F.R. 1.21001(d)(1). In addition, applicants will not be permitted to participate in competitive bidding if the application does not identify the applicant, 1.21001(d)(2), and/or the applicant has not provided any bond or deposit of funds required pursuant to § 1.21001(c), as of the applicable deadline, § 1.21001(d)(3). An applicant may not make a major modification to its application after the deadline for submitting the application, § 1.21001(d)(4). An applicant may be permitted to make

minor modifications to its application after the deadline for submitting applications, § 1.2001(d)(5). After receipt and review of the application, an applicant that will be permitted to participate in competitive bidding will be identified in a public notice, § 1.2001(d)(6).

- d. *Procedures for Reporting Potentially Prohibited Communications.* Section 1.21002(c) and (d) require parties to report communications that may be prohibited by section 1.21002(b). The party making the report shall do so in writing and may use electronic transmission.
- e. *Application to Participate in Competitive Bidding for Mobility Fund Phase I Support.* Section 54.1005(a) states the specific requirements for applications to participate in competitive bidding for Mobility Fund Phase I. The application must provide: ownership information as set forth in § 1.2112(a) of the Commission's rules, 47 C.F.R. § 54.1005(a)(1) and § 1.21001(b); certification that the applicant is financially and technically capable of meeting the public interest obligations for support, § 54.1005(a)(2); its status as an Eligible Telecommunications Carrier (ETC) or as a Tribal entity and certification that the disclosure is accurate, § 54.1005(a)(3); a description of the spectrum access and certification that the description is accurate and that the applicant will retain such access for at least five (5) years after the date on which it is authorized to receive support, § 54.1005(a)(4); certification that the applicant will not bid on any areas in which it has made a public commitment to deploy 3G or better wireless service by December 31, 2012, § 54.1005(a)(5); and any applicable certifications required in § 54.1004, § 54.1005(a)(6).
- f. *Ownership Information.* As noted above, parties are required to provide the ownership information required in the Commission's existing rules at §1.2112(a). To minimize the reporting burden, we will allow applicants to use ownership information stored in existing Commission databases and update that ownership information as necessary. The approval for this information collection can be found in OMB approval 3060-0799.
- g. *Service to Tribal Lands.* Section 54.1004(a) requires a Tribally-owned or –controlled entity that has an application for ETC designation pending to certify that it is a Tribally-owned or –controlled entity and identify the applicable Tribe and Tribal lands in order to submit an application to participate in the Mobility Fund auction. Section 54.1004 (c) also requires this certification in order to apply to receive a Tribal land bidding credit.

Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r).

2. *Use of Information.* The Commission needs to use the information collected to determine whether applicants are qualified to participate in reverse auctions (competitive bidding) for support from the Mobility Fund. The FCC Form 180 will be used by entities applying to participate in auctions for Mobility Fund support. Commission staff will

review the information collected prior to the auction. Commission staff will determine whether applicants to participate in the auction meet the requirements and are eligible to participate.

3. *Technological collection techniques.* The Commission is committed to meeting the requirements of the E-Government Act, which requires Government agencies to provide the general public the option of submitting information or transacting business electronically to the maximum extent possible. The form associated with this collection will be available electronically through the Internet.

4. *Efforts to identify duplication.* Each application submitted will be for a new project and for new purposes. Some of the questions may overlap with material provided in other filings required for obtaining Commission benefits. To avoid duplication, the application filing system developed by the Commission will automatically populate certain information in this collection with information that is currently on file with the Commission. Applicants will be allowed to update the information as needed for this filing.

5. *Impact on small entities.* The collection of information may affect small entities as well as large entities. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents regardless of size. The Commission has limited the information requirement to that which is necessary for evaluating and processing the application and to deter possible abuses of the Commission's processes.

6. *Consequences if information is not collected.* The respondents will determine whether to participate in competitive bidding. Thus, the frequency of filing is generally determined by the applicant and there are no consequences for not filing an FCC Form 180 application. Ownership information must be updated when a respondent's status changes, so it is generally determined by the applicant.

The Commission needs to use the information collected to determine whether applicants are legally, technically, and financially qualified to participate in a Commission auction for Mobility Fund support. The Commission's auction, including the collection of information to determine applicants' qualifications to participate pursuant to Commission rules and requirements, is designed to limit the competitive bidding to qualified applicants; to deter possible abuse of the bidding process; and to enhance the use of competitive bidding to distribute Universal Service Fund support in furtherance of the public interest. Thus, the information is being collected to meet the objectives of the Universal Service Fund program.

7. *Special circumstances.* Not applicable

8. *Notice required by 5 C.F.R. 1320.8(d).* The Commission published a notice on December 20, 2011 (76 FR 78921 01). No PRA comments were received as a result of this notice. A reference to this notice is included in the submission to the OMB.

9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts.

10. *Assurance of confidentiality.* Information collected in FCC Form 180 will be made available for public inspection. Applicants may request confidential treatment of information collected in FCC Form 180 pursuant to 47 C.F.R. §0.459 of the Commission's rules.

11. *Questions of a sensitive nature.* This information collection does not address any private matters of a sensitive nature.

12. *Estimates of the hour burden of the collection to respondents.*

(1) Number of respondents: Approximately 250.

(2) Frequency of response: On occasion reporting requirement.

(3) Annual burden per respondent: 1.5 hours. The total annual hour burden is **375 hours.**

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$27,851

The Commission estimates that parties will use staff equivalent to a GS-14/Step 5 (\$57.13/hour) Federal employee, plus 30% overhead, to complete and submit the application.

375 hours x \$57.13/hour = \$21,424

30% overhead = \$ 6,427

Total: \$27,851

TOTAL ANNUAL BURDEN HOURS = 375 HOURS.

13. *Estimates of the cost burden of the collection to respondents.* There is no cost burden to the respondents. Applicants should not incur capital and start-up costs or operation and maintenance of purchase of services in connection with responding to the information collection in FCC Form 180. The information collected in FCC Form 180 should be collected and maintained as part of the customary and usual business or private practice of the applicant.

TOTAL CAPITAL AND START-UP COSTS or OPERATION AND MAINTENANCE (O&M) = \$0.

14. *Estimates of the cost burden to the Commission.* The Commission estimates that on average staff review of the information collected in FCC Form 180, including time spent by staff attorneys, will take 1.5 hours per application, including time to identify any

deficiencies in an initial application, review resubmitted applications as necessary, and identify the nature of any legal issues requiring policy review.

Total Estimated Annual Cost to the Federal Government: 250 applications x 1.50 hours x \$57.13 (Attorney, GS-14/Step 5) = \$21,424.

TOTAL ANNUAL COST TO THE GOVERNMENT: \$ 21,424

15. *Program changes or adjustment.* This is a new information collection resulting in a program change increase of 375 total annual burden hours.

16. *Collections of information whose results will be published.* The Commission will make any non-proprietary information publicly available on the Internet as the Commission deems appropriate.

17. *Display of expiration date for OMB approval of information collection.* The Commission seeks approval to not display the OMB expiration date on FCC Form 180. - This will prevent the Commission from having to change the OMB expiration date whenever we re-submit this information collection for approval. The Commission will use an edition date on the form instead of the OMB expiration date. The Commission will publish the OMB control number and OMB expiration date and title in the Code of Federal Regulations. See 47 C.F.R. § 0.408.

18. *Exception to the certification statement for Paperwork Reduction Act submission (Item 19 of the OMB Form 83-1).* There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.