

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and

SUPPORTING STATEMENT

New Collection Titled: Application to Participate in Rural Broadband Experiments and Post-Selection Review of Rural Broadband Experiment Winning Bidders. This new collection is being submitted as part of the *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98 (rel. July 14, 2014) to obtain OMB approval for new information collection requirements as a result of a recent Commission order explained below.

A. Justification:

Circumstances that make these collections necessary. The Federal Communications Commission seeks emergency processing under the Paperwork Reduction Act (PRA), 5 C.F.R. § 1320.13. The Commission is requesting OMB approval for this new information collection by September 19, 2014.

Under this information collection, the Commission proposes to collect information to determine applicants that will be selected to participate in the rural broadband experiments and whether winning bidders are technically and financially capable of receiving funding for rural broadband experiment projects.

To aid in collecting this information regarding the rural broadband experiments, the Commission has created proposed FCC Form 5610 and FCC Form 5620, which applicants will use to apply to participate in the rural broadband experiments.

This information will be used to determine which applicants submit the most-cost effective proposals in each funding category and whether winning bidders have the technical and financial qualifications to successfully complete the proposed project within the required timeframes.

The Communications Act of 1934, as amended requires the “preservation and advancement of universal service.” The information collection requirements reported under this new collection are the result of various Commission actions to promote the Act’s universal service goals, while minimizing waste, fraud, and abuse.

On January 31, 2014, the Commission released the *Tech Transitions et al.*, GN Docket No. 13-5 *et al.*, 29 FCC Rcd 1433 (2014) (*Tech Transitions Order*), that adopted targeted experiments to explore the impact of technology transitions on rural Americans, including those living on Tribal lands.

On July 14, 2014, the Commission released *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98 (rel. July 14, 2014) (*Rural Broadband Experiments Order*), which established certain parameters

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

and requirements for the rural broadband experiments adopted by the Commission in the *Tech Transitions Order*.

This new information collection addresses requirements to carry out the rural broadband experiments the Commission adopted in the *Tech Transitions Order* and *Rural Broadband Experiments Order*.

There will be two new forms added to this information collection (FCC Form 5610 and FCC Form 5620)

New requirements being proposed to this information collection:**Application to Participate in Rural Broadband Experiments (FCC Form 5610)**

The *Rural Broadband Experiments Order* adopted a budget of \$100 million for funding experiments in price cap areas in order to advance implementation of the Phase II competitive bidding process in such areas. This budget was divided into three separate funding categories, with projects seeking funding in each category required to meet specific service requirements. The Order also determined that the most cost-effective bids submitted in each funding category would be selected to receive rural broadband experiment funding. Therefore, the Commission is seeking approval of the process by which applicants may submit proposals for participation in the rural broadband experiments.

The Commission estimates that up to 500 parties may submit applications to participate in the rural broadband experiments. The number of applicants will vary, dependent on the number of providers interested in serving the eligible areas.

The Commission's rules regarding competitive bidding for universal service support (47 C.F.R. §§ 1.21000-1.2004) generally apply to the rural broadband experiments to the extent they have not been modified for these experiments. The following are the collections of information proposed for the rural broadband experiments.

- a. *Applicant Information.* The applicant must provide: the identity and address of the applicant; the applicant's legal classification; a responsible party for the applicant; a contact party for the applicant; the identities of up to three individuals authorized to make or withdraw a bid on behalf of the applicant;
- b. *Joint Bidding Agreements.* The applicant must provide the identities of all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding. Any applicant that has entered into such an agreement must upload an electronic version of the agreement.
- c. *Ownership Information.* The applicant must provide the ownership information required in the Commission's existing rules at §1.2112(a). The approval for this information collection can be found in OMB approval 3060-0799.

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

- d. *Formal Proposals.* The applicant must upload a formal proposal. The formal proposal must include:
1. background information on the applicant and its qualifications to provide voice and broadband service;
 2. a description of the proposed project(s) and service area(s);
 3. planned voice and broadband service offerings and technology to be used; and
 4. the number of locations, including community anchor institutions, within the project area(s).

The proposal should also include a description of what Lifeline services the applicant intends to offer if awarded support, whether it will have a broadband offering for low-income consumers, and whether it will permit qualifying consumers to apply the Lifeline discount to bundled voice and data services.

- e. *Bid Forms.* The applicant must upload a completed bid form (Attachment A). For each individual project on which an applicant bids, the applicant will be required to provide:
1. its unique FCC Registration Number (FRN);
 2. the funding category for the project;
 3. a unique project identification number; the census blocks to be served;
 4. the total number of eligible locations to be served;
 5. the total number of extremely high-cost locations to be served; and
 6. the total support requested.

The applicant also will be required to identify whether projects for funding category three (serving only extremely high-cost census blocks) are contingent on winning a project in funding categories one or two.

- f. *Descriptive Data Forms.* The applicant must upload a completed descriptive data form (Attachment B). The descriptive data form is part of the collection and will be provided by the Bureau. For each individual project on which an applicant bids, the applicant will be required to provide:
1. its unique FRN;
 2. what type of provider the applicant is;
 3. whether the applicant has already been designated as an Eligible Telecommunications Carrier (ETC);
 4. whether the applicant will elect to receive one-third of its support upfront if selected for funding;
 5. the funding category; and
 6. what type of technology the applicant will use.

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

- g. *Certifications.* The applicant is required to certify:
1. that it is in compliance with all statutory and regulatory requirements for receiving the universal service support that it seeks;
 2. that the individual submitting the application is authorized to do so on behalf of the applicant;
 3. that it is financially and technically capable of providing service in each area for which it seeks support;
 4. that it has available funds for all project costs that exceed the amount of support it may receive;
 5. that it will offer service in supported areas at rates that are within a reasonable range of rates for similar service plans in urban areas;
 6. that it is designated as or will seek designation as an Eligible Telecommunications Carrier pursuant to Section 214(e) of Title 47 of the United States Code for areas for which it will seek support;
 7. that, if its proposal includes the use of spectrum, it has access to spectrum in areas that enables it to satisfy the applicable performance requirements;
 8. that it or any party to the application is not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988;
 9. that it is not delinquent on any non-tax debt owed to any federal agency;
 10. that it is aware that if its application is defective, the application may be dismissed without further consideration; and
 11. that it will meet the threshold requirements for each category of bid that it submits.
- h. *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.

Post-Selection Review of Rural Broadband Experiment Winning Bidders' Information (FCC Form 5620)

The *Rural Broadband Experiments Order* also provided that, once the most cost-effective bids were selected, Commission staff would conduct a technical and financial review to determine whether the winning bidders have the qualifications to successfully complete the proposed project within the required timeframes. Therefore, the Commission is seeking approval of the process by which winning bidders may submit additional information for this technical and financial review.

The Commission estimates that up to 20 parties may be selected as winning bidders in the rural broadband experiments. The number of parties selected will vary, dependent on how many proposals we receive and how many proposals the budget for the experiments will allow. The following are the collections of information required to determine whether winning bidders have the technical and financial capability to complete their proposed projects.

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

- a. *Financial Statements.* Within 10 business days of announcement of the winning bidders, each winning bidder must provide the most recent three consecutive years of audited financial statements, including balance sheets, net income, and cash flow.
- b. *Network Design.* Within 10 business days of announcement of the winning bidders, each winning bidder must provide a description of the technology and system design used to deliver voice and broadband service, including a network diagram, which must be certified by a professional engineer. Selected applicants proposing to use wireless technologies also must provide a description of spectrum access in the areas for which the applicant seeks support.
- c. *Letter of Credit Commitment Letter.* Within 60 days of announcement of the winning bidders, each winning bidder must provide a letter from an acceptable bank committing to issue an irrevocable stand-by original letter of credit (LOC) to the winning bidder (Attachment C). The commitment letter must, at a minimum, provide the dollar amount of the LOC and the issuing bank's agreement to follow the terms and conditions of the Commission's model LOC.
- d. *Eligible Telecommunications Carrier Designation.* Within 90 days of announcement of the winning bidders, each winning bidder must provide appropriate documentation of its ETC designation in all the areas for which it will receive support and certify that the information submitted is accurate.
- e. *Technical and Financial Review.* Commission staff will utilize this information to determine whether each of the winning bidders has demonstrated that it has the technical and financial qualifications to successfully complete the proposed project within the required timeframes and is in compliance with all statutory and regulatory requirements for the universal service support that the winning bidder seeks.
- f. *Letter of Credit (LOC).* Within 10 business days of announcement that a winning bidder is technically and financially qualified to receive rural broadband experiment funding, the winning bidder must provide an irrevocable stand-by original LOC that has been issued and signed by the issuing bank, along with an opinion letter from legal counsel.

Statutory authority for this information collection is contained in 47 U.S.C. sections 151-154 and 254.

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

2. *Use of Information.* The Commission requires the information collected to determine which applicants will be selected to participate in the rural broadband experiments and whether winning bidders are technically and financially capable of receiving funding for rural broadband experiment projects.

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

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 forms associated with these collections will be available electronically through the Internet. Electronic filing will be required.
4. *Efforts to identify duplication.* There will be no duplication of information. The information sought is unique to each applicant and similar information is not already available.
5. *Impact on small entities.* The collections 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 information collected from respondents will be used to determine funding eligibility for the rural broadband experiments. If the information is not collected, rural broadband experiment funds could be used to deploy to areas that are not eligible for funding, resulting in a waste of federal funds. Failure to collect the information also would impede the rural broadband experiments.
7. *Special circumstances.* We do not foresee any special circumstances that would cause these information collections to be conducted under extraordinary circumstances.
8. *Federal Register notice; efforts to consult with persons outside the Commission.* Emergency approval is being sought for these information collection requirements, and the Commission seeks waiver of the 60-day notice requirement due to the emergency nature of this request under 5 C.F.R. § 1320.8(d). However, the Commission has prepared and will publish a 30 day notice, announcing submission of this emergency request.

The Commission will conduct all the regular OMB clearance processes and procedures upon approval of the emergency request. We will publish the necessary notice(s) in the *Federal Register* when seeking regular OMB approval:

- (a) FRN commencing the initial 60 day comment period, and
- (b) FRN commencing the second 30 day comment period.

The Commission solicited expressions of interest from parties interested in participating in the rural broadband experiments and has met with a number of parties likely to submit applications to seek their input on the rural broadband experiments process.

9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gifts to respondents.

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

10. *Assurance of confidentiality.* Information collected in FCC Form 5610 will be confidential until winning applicants are announced. At that time, the proposals submitted by winning applicants will be made publicly available. All other proposals submitted will remain confidential. Information collected in FCC Form 5620 will be confidential.
11. *Questions of a sensitive nature.* There are no questions of a sensitive nature with respect to the information collections described herein.
12. *Estimates of the hour burden of the collection to respondents.* The following represents the hour burden on the collections of information:

a. Application to Participate in Rural Broadband Experiments (FCC Form 5610):

- (1) Number of respondents: Approximately 500. Any party interested in receiving rural broadband experiment funding must submit an application.
- (2) Frequency of response: One-time. Parties will submit their application to participate once.
- (3) Annual burden per respondent: 5 hours per respondent for approximately 500 applicants filing once. Total annual hour burden is calculated as follows: 500 applicants x 1 application per applicant = 500 applications x 5 hours = **2,500 total annual hours**. The hour burden may vary depending on the number of bids an applicant submits and the number of census blocks it proposes to serve.
- (4) Total estimate of annualized cost to respondents for the hour burdens: \$185,673.
- (5) Explanation of calculation: The Commission estimates that applicants will use staff equivalent to a GS-14/Step 5 (\$57.13/hour) Federal employee, plus 30% overhead, to complete and submit the application. 500 (number of applicants) x 5 (hours to prepare application) x \$57.13/hour x 30% overhead = \$185,673.

b. Post-Selection Review of Rural Broadband Experiment Winning Bidders (FCC Form 5620):

- (1) Number of respondents: Approximately 20. We anticipate that up to 20 applicants may be selected as winning bidders.
- (2) Frequency of response: On occasion reporting requirement. Winning bidders will have various reporting requirements over a 90-day period.
- (3) Annual burden per respondent: 10 hours. The total annual hour burden is: 10 hours x 20 winning bidders = **200 hours**.
- (4) Total estimate of annualized cost to respondents for the hour burdens: \$14,854.

**Rural Broadband Experiments and Post-Section Review of Rural
Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620**

(5) Explanation of calculation: The Commission estimates that winning bidders will use staff equivalent to a GS-14/Step 5 (\$57.13/hour) Federal employee, plus 30% overhead, to complete and submit the post-selection review materials. 20 (number of winning bidders) x 10 (hours to prepare materials) x \$57.13/hour x 30% overhead = \$14,854.

The estimated respondents and responses and burden hours are listed below:

Information Collection Requirements	Number of Respondents	Number of Responses Per Year	Estimated Time per Response (hours)	Total Burden Hours	In-house Office and Overhead Costs
<u>a. Application to Participate in Rural Broadband Experiments</u>	500	1	5	2,500	\$185,673.00
<u>b. Post-Selection Review of Rural Broadband Experiment Winning Bidders</u>	20	1	10	200	\$14,854.00
TOTALS:	520	N/A	5-10	2,700	\$200,527.00

Total Number of Respondents: 500.

The Commission estimates that the categories of respondents are:

97% private sector (businesses and institutions): 485 respondents

3% governments: 15 respondents

Total Number of Responses Annually: 520 responses (reporting requirements).

The Commission estimates that the responses per each category respondents are:

97% private sector (businesses and institutions): 485 responses

3% governments: 15 responses

Rural Broadband Experiments and Post-Section Review of Rural Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620

Total Annual Hourly Burden for requirements: 2,700 hours.

The Commission estimates that the hourly burdens per each category of respondents are (Forms 5610 and 5620):

97% private sector (businesses and institutions): 2,615 hours

3% governments: 85 hours

Total Annual “In House” Costs: \$200,527

13. *Estimates of the cost burden of the collection to respondents.* There are no outside contracting costs for this information collection. See the last column in the chart in item 12 above for the estimated in-house costs.
14. *Estimates of the cost burden to the Commission.* There will be few, if any, costs to the Commission because ensuring proper use of universal service support is already part of Commission duties. Furthermore, no new systems or programs will be acquired or developed to process the information collection.
15. *Program changes or adjustment.* This is a new information collection resulting in a program change increase of 2,700 total annual burden hours.
16. *Collections of information whose results will be published.* Information collected in FCC Form 5610 will be confidential until winning bidders are announced. At that time, the proposals submitted by winning applicants will be made publicly available. All other proposals submitted will remain confidential. Information collected in FCC Form 5620 will be confidential.
17. *Display of expiration date for OMB approval of information collection.* The Commission seeks an exemption from the requirement to display the OMB expiration date on the forms related to this information collection. The Commission will use an edition date on the form in lieu of the OMB expiration date. This will prevent the Commission from having to constantly update the expiration date on the electronic and paper forms each time this collection is submitted to OMB for review and approval. The Commission publishes a list of all OMB-approved information collections in 47 C.F.R. 0.408 of the Commission’s rules.
18. *Exception to certification statement for Paperwork Reduction Act submissions (Item 19 of OMB Form 83-I).* There are exceptions to item 19 of the OMB 83i certification. The Commission is seeking a waiver of the 60-day notice requirement under 5 C.F.R. §1320.8(d). Due to the emergency nature of this request the Commission did not publish a 60-day notice. However, the Commission will publish a 30 day notice in the *Federal Register* soliciting public comment on the emergency approval request. The Commission has requested an approval date of September 19, 2014.

**Rural Broadband Experiments and Post-Section Review of Rural
Broadband Experiment Winning Bidders, FCC Forms 5610 and 5620**

B. Collections of Information Employing Statistical Methods:

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