

Rural Broadband Experiments and Post-Selection Review of Rural Broadband Experiment Winning Bidders, FCC Form 5620

SUPPORTING STATEMENT

This 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 Office of Management and Budget (OMB) approval for revised information collection requirements as a result of adding certain reporting requirements in this collection, and eliminating FCC Form 5610.

A. Justification:

Circumstances that make these collections necessary. 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. The Commission also proposes to collect information that will enable it to monitor the progress of the rural broadband experiments and ensure that the support is used for its intended purposes.

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

This information will be used to determine 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 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 and requirements for the rural broadband experiments adopted by the Commission in the *Tech Transitions Order*.

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

In the *Rural Broadband Experiments Order*, the Commission adopted accountability measures for recipients of rural broadband experiment support, including certain reporting requirements. The changes we propose will incorporate some of these reporting requirements into this information collection. We intend to seek OMB approval of the remaining reporting requirements in 3060-0986 at a later date.

The Commission required that recipients file a one-time progress report the November after they begin receiving support. The Commission also required recipients to file certifications when they meet certain build-out milestones along with evidence demonstrating that the milestones have been met. These measures will enable the Commission to monitor the progress of the rural broadband experiments and ensure that the support is being used for its intended purposes. The Commission also adopted other certification and reporting requirements for the rural broadband experiments that we intend to seek approval in the near future.

Currently, there are two forms in this information collection (FCC Form 5610 and FCC Form 5620). We propose to eliminate FCC Form 5610, the application to participate in the rural broadband experiments, and its associated burdens. The deadline to file FCC Form 5610 with the Commission was November 7, 2014. Because the Commission does not anticipate holding another round of bidding, no additional entities will be required to file FCC Form 5610.

Because more bidders were provisionally selected as winning bidders than we had originally anticipated, we also propose to increase the number of respondents associated with the post-selection review of provisionally selected winning bidders. We do not propose any changes to FCC Form 5620, which is associated with the post-selection review.

New requirement being proposed in this information collection:**November Interim Progress Report**

The *Rural Broadband Experiments Order* requires that recipients of the rural broadband experiments file an interim progress report on November 1st after they receive their first disbursement of rural broadband experiment support. This one-time report must be filed with the Universal Service Administrative Company (USAC) and in WC Docket No. 14-259 and must reflect data as of September 30th immediately preceding the November 1st deadline.

The November interim progress report must include:

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1. A description of the status of the rural broadband experiment recipient's project (i.e., whether vendors have been hired, permits have been obtained, and construction has begun);
2. Evidence demonstrating which locations (if any) that recipients have built out to in their project areas where the recipient is offering at least one voice service and one broadband service that meets the public service obligations for the relevant experiment category (e.g., longitude and latitude data); and
3. If locations are newly served at the time of the report, evidence demonstrating that recipients are meeting the public service obligations for the relevant experiment category (e.g., marketing materials that show the voice and broadband packages available to each location, detailing the pricing, offered broadband speed, and data usage allowances available in the relevant geographic area), including a certification that demonstrates the service they offer complies with the Commission's latency requirements.

Recipients will be responsible for ensuring that the evidence that they submit protects customer privacy consistent with applicable privacy laws and regulations. Parties submitting information should take steps to ensure that sensitive information is not improperly submitted. Examples of such information are customer proprietary network information (47 U.S.C. § 222; 47 C.F.R. §§ 64.2001-64.2011), records covered by the Electronic Communications Privacy Act (18 U.S.C. § 2702(a)(3), (c)), or records otherwise protected by law for purposes of customer privacy (*see, e.g.,* 47 U.S.C. § 551).

This report will enable the Commission to monitor the recipients' progress in deploying their networks and monitor their use of the support soon after support is distributed, rather than having to wait until the following July when rural broadband experiment recipients will be required to submit an annual report approved by OMB in 3060-0986.

Build-Out Milestone Certifications

In the *Rural Broadband Experiments Order*, the Commission adopted build-out milestones for recipients of rural broadband experiment support. Specifically, by the end of the third year of receiving support, recipients must offer service meeting the relevant public service obligations to at least 85 percent of the number of required locations. By the end of the fifth year, recipients must offer service meeting the relevant public service obligations to 100 percent of the number of required locations. If recipients choose to request 30 percent of their support upfront in their applications, they are also required to deploy to at least 25 percent of the number of required locations within the first 15 months of receiving support.

By the deadline for each build-out milestone, recipients are required to certify that they have met the relevant build-out milestone. That certification must be submitted to USAC and in WC Docket No. 14-259, and must be accompanied by evidence demonstrating that the build-out milestone has been met. The evidence must include:

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1. Evidence demonstrating which locations that recipients have built out to in their project areas where the recipient is offering at least one voice service and one broadband service that meets the public service obligations for the relevant experiment category (e.g., longitude and latitude data); and
2. Evidence demonstrating that recipients are meeting the public service obligations for the relevant experiment category (e.g., marketing materials that show the voice and broadband packages available to each location, detailing the pricing, offered broadband speed, and data usage allowances available in the relevant geographic area) for each location, including a certification that demonstrates the service they offer complies with the Commission's latency requirements.

Recipients will be responsible for ensuring that the evidence that they submit protects customer privacy consistent with applicable privacy laws and regulations. Parties submitting information should take steps to ensure that sensitive information is not improperly submitted. Examples of such information are customer proprietary network information (47 U.S.C. § 222; 47 C.F.R. §§ 64.2001-64.2011), records covered by the Electronic Communications Privacy Act (18 U.S.C. § 2702(a)(3), (c)), or records otherwise protected by law for purposes of customer privacy (*see, e.g.,* 47 U.S.C. § 551).

If a recipient does not make this certification by the deadline for the build-out milestone or if the recipient is found to not be in compliance with the terms and conditions of the rural broadband experiments during any point during its support term, the recipient will be subject to certain non-compliance measures. In order to come into full compliance, the recipient will be required to certify to the Commission that it is in compliance and also submit the evidence described above to demonstrate its compliance.

The Commission will use the information that is provided with the certifications to verify that recipients are in fact meeting the terms and conditions of the rural broadband experiments.

Recordkeeping Requirement

Recipients of rural broadband experiment support are subject to random compliance audits and other investigations to ensure compliance with the rural broadband experiments' terms and conditions, and recipients must retain records required to demonstrate to auditors that the support was used consistent with the terms and conditions. The document retention period is ten years. Recipients must make these documents and records available to the Commission, any of its Bureaus or Offices, USAC, and to their respective auditors.

The existing information collection requirements contained in this collection are:

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

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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 47 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.

- 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

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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.

This information does not affect individuals or households; thus, there are no impacts under the Privacy Act. As noted above, respondents are responsible for ensuring that the evidence they submit with their November interim progress report and their build-out milestone certifications protects customer privacy consistent with applicable privacy laws and regulations. Parties submitting information should take steps to ensure that sensitive information is not improperly submitted. Examples of such information are customer proprietary network information (47 U.S.C. § 222; 47 C.F.R. §§ 64.2001-64.2011), records covered by the Electronic Communications Privacy Act (18 U.S.C. § 2702(a)(3), (c)), or records otherwise protected by law for purposes of customer privacy (*see, e.g.*, 47 U.S.C. § 551).

2. *Use of Information.* The Commission requires the information collected to determine whether winning bidders are technically and financially capable of receiving funding for rural broadband experiment projects. The information will also aid the Commission in its oversight of the use of rural broadband experiment support once it is disbursed to recipients.
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 these collections will be available electronically through the Internet. Electronic filing of this form, the November interim progress report, and the build-out milestone certifications 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.
6. *Consequences if information is not collected.* The information collected from respondents will be used to determine funding eligibility for the rural broadband experiments and to monitor the use of such funds. 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 and would make it difficult for the Commission to uphold its responsibility to ensure that the support is being used for its intended purposes.

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7. *Special circumstances.* We do not foresee any special circumstances associated with this information collection.
8. *Federal Register notice; efforts to consult with persons outside the Commission.* A 60-day notice was published in the *Federal Register* pursuant to 5 C.F.R. § 1320.8(d) on May 8, 2015, See 80 FR 26560. No comments were received from the public.
9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gifts to respondents.
10. *Assurance of confidentiality.* There are no assurances of confidentiality. However, we intend to keep the information private to the extent permitted by law. Also, respondents may request materials or information submitted to the Commission believed confidential to be withheld from public inspection under 47 C.F.R. § 0.459 of the FCC's rules.
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:

New requirement being proposed in this information collection:**a. November Interim Progress Report:**

- (1) Number of respondents: Approximately 22. We estimate that approximately 22 provisionally selected winning bidders will be authorized to receive rural broadband experiment support.
- (2) Frequency of response: One-time. Parties will submit the report on the November 1st after they receive their first disbursement of rural broadband experiment support. Some of the parties may be authorized for more than one experiment, and thus will need to submit more than one November interim progress report. The average number of reports the provisionally selected winning bidders will submit is two reports.
- (3) Annual burden per respondent: 10 hours per respondent for approximately 22 recipients filing on average two reports once. Total annual hour burden is calculated as follows: 22 recipients x 10 hours x an average of two reports= **440 total annual hours**. The hour burden may vary depending on the number of locations that a recipient of rural broadband experiment support has served with support when it files the report.
- (4) Total estimate of in-house cost to respondents for the hour burdens: \$25,644.

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(5) Explanation of calculation: The Commission estimates that recipients will spend at least 10 hours drafting a report explaining the progress of their experiment and collecting evidence to demonstrate any new build-out. The Commission estimates that recipients will use staff equivalent to a GS-14/Step 5 (\$58.28/hour) Federal employee to complete and submit the report. 22 (number of respondents) \times 10 (hours to prepare report) \times 2 (average number of reports entities will need to submit) \times $\$58.28/\text{hour} = \$25,644$ (rounded up).

b. Build-out Milestone Certifications:

(1) Number of respondents: Approximately 22. We estimate that approximately 22 provisionally selected winning bidders will be authorized to receive rural broadband experiment support.

(2) Frequency of response: Occasionally. Respondents that requested 30 percent of their support upfront will be required to submit three build-out milestone certifications accompanied by evidence (within the first 15 months of support, within the first three years of support, and within the first five years of support). Respondents that do not request upfront support will be required to submit two build-out milestone certifications accompanied by evidence (within the first three years of support and within the first five years of support). Respondents that are authorized to receive support for more than one experiment will be required to file one certification for each experiment. The average number of certifications the provisionally selected winning bidders will submit each reporting period is two.

Respondents may also be required to submit certifications accompanied by evidence to demonstrate that they have come into compliance, after they are found to not be in compliance with the terms and conditions of the rural broadband experiments during their support terms.

(3) Annual burden per respondent: 20 hours per respondent for approximately 22 respondents filing an average of two certifications on an occasional basis. Total annual hour burden is calculated as follows: 22 respondents \times 20 hours \times 2 (average number of certifications that will be filed) = **880 total annual hours**. The hour burden may vary depending on the number of locations that a recipient of rural broadband experiment support is required to serve.

(4) Total estimate of in-house cost to respondents: \$51,287.

(5) Explanation of calculation: The Commission estimates that respondents will spend at least 20 hours certifying that they are meeting the applicable build-out milestones and collecting evidence to demonstrate compliance. We anticipate that respondents will use staff equivalent to a GS-14/Step 5 (\$58.28/hour) Federal employee, to complete and submit the certification. 22 (number of respondents) \times 20 (hours to prepare certification) \times 2 (average number of certifications that will be filed) \times $\$58.28/\text{hour} = 51,287$ (rounded up).

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c. Recordkeeping Requirements:

- (1) Number of respondents: Approximately 22. We estimate that approximately 22 provisionally selected winning bidders will be authorized to receive rural broadband experiment support.
- (2) Frequency of response: Annually.
- (3) Annual burden per respondent: 2 hours per respondent for approximately 22 respondents on an annual basis. Total annual hour burden is calculated as follows: 22 respondents x 2 hours = **44 total annual hours**.
- (4) Total estimate of in-house cost to respondents: \$1,760.
- (5) Explanation of calculation: The Commission estimates that recipients will spend at least 2 hours tracking document retention periods and will use administrative staff for these purposes. 22 (number of respondents) x 2 (hours to maintain documentation) x \$40/hr. (administrative staff time and overhead) = \$1,760.

Existing requirements in this information collection:

e. Post-Selection Review of Rural Broadband Experiment Winning Bidders (FCC Form 5620) (currently approved; increased the number of respondents):

- (1) Number of respondents: Approximately 47. Approximately 47 applicants were 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 47 winning bidders = **470 hours**.
- (4) Total estimate of in-house cost to respondents: \$27,392.
- (5) Explanation of calculation: The Commission estimates that winning bidders will use staff equivalent to a GS-14/Step 5 (\$58.28/hour) Federal employee, to complete and submit the post-selection review materials. 47 (number of winning bidders) x 10 (hours to prepare materials) x \$58.28/hour = \$27,392 (rounded up).

Total Number of Respondents: **47**.

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Total Number of Responses Annually: **135 responses** (reporting requirements).

Total Annual Hourly Burden for requirements: **1,834 hours**.

Total Annual “In-House” Costs: **\$106,083**

13. *Estimates of the cost burden of the collection to respondents.* There are no outside contracting costs for this information collection.
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.* The Commission is reporting adjustments/increases to this information collection. These adjustments/increases are due to more provisionally selected winning bidders from Form 5620 which increased the total annual responses from 20 to 47 (27) and the total annual burden hours from 200 to 470 (270).

Also, the Commission is reporting program changes/decreases to this collection. These program changes/decreases are to the total annual responses of -500 and -2,500 to the total annual burden hours which are due to the elimination of FCC Form 5610. There are also increases of 88 to the total annual responses and 1,364 to the total annual burden hours which are due to the new information collection requirements added to this collection. In ROCIS, this offset results in program changes of -412 to the annual number of responses and -1,136 to the total annual burden hours.

16. *Collections of information whose results will be published.* Information collected in FCC Form 5620 will be confidential. Information collected in the November interim progress report and in the build-out milestone certifications will be made publicly available.
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 form 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 form 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 no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

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