

SUPPORTING STATEMENT

The Federal Communications Commission (Commission) is seeking approval from the Office of Management and Budget (OMB) for a revision to a currently approved collection. The currently approved collection contains information collection requirements that apply generally to all applicants seeking to participate in competitive bidding for universal service support. The currently approved collection also contains information collection requirements that apply specifically to applicants seeking to participate in competitive bidding for Mobility Fund Phase I and Tribal Mobility Fund Phase I support. Because Mobility Fund Phase I and Tribal Mobility Fund Phase I support has been awarded, the Commission requests that the currently approved information collection be modified to remove the information collection requirements that apply specifically to applicants seeking to participate in competitive bidding for Mobility Fund Phase I and Tribal Mobility Fund Phase I support and the associated FCC Form 180 used by entities applying to participate in auctions for Mobility Fund Phase I and Tribal Mobility Fund Phase I support. The Commission requests that the currently approved information collection be modified to retain only the information collection requirements that apply generally to all applicants seeking to participate in competitive bidding for universal service support. The Commission also requests that the title of this information collection be changed to “Section 1.21001, Participation in Competitive Bidding for Support; Section 1.21002, Prohibition of Certain Communications During the Competitive Bidding Process” to reflect the revised information collection.

A. Justification:

1. *Circumstances that make the revised collection necessary.* On November 18, 2011, the Commission released an order comprehensively reforming and modernizing the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. *Connect America Fund et al.*, Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*). In adopting the *USF/ICC Transformation Order*, the Commission created the Connect America Fund (CAF) to help make broadband available to homes, businesses, and community anchor institutions in areas that do not, or would not otherwise, have broadband. Under Phase I of the CAF, the Commission provided funding for price cap carriers to extend robust, scalable broadband to hundreds of thousands of unserved Americans beginning in early 2012. The Commission explained that Phase II of the CAF will use a combination of “a new forward-looking model of the cost of constructing multi-purpose networks” and a competitive bidding process to provide additional funding to price cap carriers.

In addition to the CAF, the Commission created the Connect America Mobility Fund (MF) to ensure the availability of mobile broadband networks in areas where a private-sector business case is lacking. Under Phase I of the MF, the Commission provided up to \$300 million in one-time support to be awarded through a nationwide reverse auction for the deployment of

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networks for mobile voice and 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 lands to accelerate mobile voice and broadband availability in these remote and underserved areas. The Commission noted that Phase II of the MF will provide up to \$500 million per year in ongoing support, including ongoing support for Tribal areas of up to \$100 million per year.

Finally, in the *USF/ICC Transformation Order*, the Commission created the Remote Areas Fund (RAF), allocating at least \$100 million per year to ensure that Americans living in the most remote areas in the nation, where the cost of deploying traditional terrestrial broadband networks is extremely high, can obtain affordable access through alternative technology platforms, including satellite and unlicensed wireless services.

To implement these reforms and conduct competitive bidding for CAF, MF, and RAF support, the Commission adopted new rules containing information collection requirements that would be used to determine whether an applicant is generally qualified to bid for universal service support in sections 1.21001 and 1.21002 of its rules, 47 CFR §§ 1.21001, 1.21002. The Commission also adopted rules containing information collection requirements that would be used to determine whether an applicant is specifically qualified to bid for Mobility Fund Phase I and Tribal Mobility Fund Phase I support in sections 54.1003, 54.1004, and 54.1005 of its rules, 47 CFR §§ 54.1003-.1005.

The Commission requested OMB approval of the information collections contained in sections 1.21001, 1.21002, 54.1003, 54.1004, and 54.1005 of its rules on February 28, 2012. OMB approved the information collection requirements for those rules under OMB control number 3060-1166 for three years on April 16, 2012. OMB subsequently approved the extension of the approved information collection requirements for an additional three years on January 8, 2015.

On September 27, 2012, the Commission conducted Auction 901 for Mobility Fund Phase I support. Upon close of the auction, 33 winning bidders were eligible to receive a total of up to \$299,998,632.25 in Mobility Fund Phase I support to provide 3G or better mobile voice and broadband services covering more than 83,000 U.S. road miles. On February 25, 2014, the Commission conducted Auction 902 for Tribal Mobility Fund Phase I in which five winning bidders were eligible to receive up to \$49,806,874 in support to provide 3G or better mobile voice and broadband services covering a population of 56,932 in 80 biddable areas.

Because Mobility Fund Phase I and Tribal Mobility Fund Phase I support has been awarded, the information collection requirements contained in sections 54.1003, 54.1004, and 54.1005 of the Commission's rules and the associated FCC Form 180 used by entities applying to participate in auctions for Mobility Fund Phase I and Tribal Mobility Fund Phase I support are now obsolete. The information collection requirements contained in sections 1.21001 and 1.21002, however, continue to apply to applicants seeking to participate in competitive bidding for universal support, including for CAF Phase II, MF Phase II, and RAF support. The

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Commission therefore seeks to modify the information collection requirements approved under OMB control number 3060-1166 to remove the information collection requirements and the associated FCC Form 180 that apply specifically to applicants seeking to participate in competitive bidding for Mobility Fund Phase I and Tribal Mobility Fund Phase I support and to retain only those information collection requirements that apply generally to applicants seeking to participate in competitive bidding for universal service support. The Commission also requests that the title of this information collection be changed to “Section 1.21001, Participation in Competitive Bidding for Support; Section 1.21002, Prohibition of Certain Communications During the Competitive Bidding Process” to reflect the revised information collection.

The Commission notes that the Commission, Wireline Competition Bureau, and Wireless Telecommunications Bureau have since adopted a number of orders and decisions to further implement the *USF/ICC Transformation Order* and specific rules related to applications to participate in competitive bidding for CAF Phase II, MF Phase II, and RAF support. The Commission plans to submit new collections to address those other reforms and rules for OMB to review at a later date.

The Commission estimates that approximately 750 parties may submit applications annually to participate in competitive bidding for universal service support. The number of applicants will vary, depending on the number of providers interested in serving the eligible areas.

Current Information Collection Requirements That Should Be Removed:

The following are the collections of information that apply specifically to applicants seeking to participate in competitive bidding for Mobility Fund Phase I and Tribal Mobility Fund Phase I support and should be removed from the information collection requirements approved by OMB under control number 3060-1166:

- a. *Provider Eligibility.* Section 54.1003(b) requires applicants for Mobility Fund Phase I support to have access to spectrum in areas that enables it to satisfy the applicable performance requirements, 47 CFR § 54.1003(b). The applicant must provide a certification that it has such access at the time it applies to participate in the Mobility Fund Phase I auction and that it will retain such access for five (5) years after the date on which it is authorized to receive support.
- b. *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 support, 47 CFR § 54.1005(a). The application must provide: ownership information as set forth in existing § 1.2112(a) of the Commission’s rules, § 54.1005(a)(1); 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

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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).

- c. *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 Phase I auction, 47 CFR § 54.1004(a). Section 54.1004(c) also requires this certification in order to apply to receive a Tribal land bidding credit, 47 CFR § 54.1004(c).

Current Information Collection Requirements That Should Be Retained:

The following are the collections of information that apply generally to applicants seeking to participate in competitive bidding for universal service support and should be retained in the information collection requirements approved by OMB under control number 3060-1166:

- a. *Application Contents.* Section 1.21001(b) requires parties to provide information in an acceptable form, 47 CFR § 1.21001(b). The applicant must provide: the identity of the applicant, § 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, or, if expressly allowed by the rules specific to a high-cost support mechanism, a certification that the applicant acknowledges that it must be in compliance with such requirements before being authorized to receive support, § 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).
- 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, 47 CFR § 1.21001(c). If a deposit is required, an applicant may be required to submit an FCC Form 159 and/or an attachment to its application to participate in competitive bidding for universal service support. FCC Form 159 is a remittance advice form that applicants/licensees file when making payment(s) to the

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Commission, including auction payments. The OMB approval for the FCC Form 159 is contained under OMB control number 3060-0589.

- c. *Application Processing.* Section 1.21001(d) requires certain application processing procedures, 47 CFR § 1.21001(d). The procedures require applications to participate in competitive bidding for support to be reviewed for completeness and compliance with the Commission's rules, § 1.21001(d)(1). In addition, applicants will not be permitted to participate in competitive bidding if the application does not identify the applicant, § 1.21101(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, § 1.2001(d)(3). An applicant may not make a major modification to its application after the deadline for submitting the application, § 1.2001(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), 47 CFR § 1.21002. The party making the report shall do so in writing and may use electronic transmission.

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

This information does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. *Use of information.* The Commission needs to use the retained information collections to determine whether an applicant is qualified to participate in competitive bidding for universal service support. The information will be collected on each application the Commission uses for participation in an auction for universal service support, including CAF Phase II, MF Phase II, and RAF support, separate OMB approvals for which will be requested at a later date. Commission staff will review the information collected prior to each auction. Commission staff will determine whether an applicant seeking to participate in an auction for universal service support meets the requirements and is eligible to participate.

The prohibited communication reporting requirement under the retained information collection will enable the Commission to ensure that no bidder gains an unfair advantage over other bidders in its auctions for universal service support and thus enhances the competitiveness and fairness of Commission's auctions. The information collected will be reviewed and, if warranted, referred to the Commission's Enforcement Bureau for possible investigation and administrative action. The Commission may also refer allegations of anticompetitive auction conduct to the Department of Justice for investigation.

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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 the retained information collection will be available electronically through the Internet. The Commission expects that in almost all cases, parties will submit their prohibited communications reports by email.

4. *Efforts to identify duplication.* There will be no duplicative information collected. Each application for universal service support submitted will be for a new project and for new purposes. The information sought for prohibited communications is also unique to covered parties and is not already available because the Commission does not impose a separate similar information collection on such parties. Thus, there is no similar data available under another information collection.

5. *Impact on small entities.* The retained collection of information may affect small entities as well as large entities. In conformance with the Paperwork Reduction Act of 1995 (PRA), 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 each application for universal service support and to deter possible abuses of the Commission's processes.

The Commission does not believe that the costs and/or administrative burdens associated with the prohibited communications reporting requirement will unduly burden small entities because it merely requires those who make or receive a communication prohibited by section 1.21002(b) to report such communications to the Commission staff no later than five business days after the communication occurs. Despite the large number of small businesses that have participated in the auctions program since its inception, an extremely small percentage of auction participants have made or received communications that have violated the prohibited communications rule. The Commission believes that the vast majority of applicants comply with the Commission's rules and do not engage in prohibited behavior, and that this will continue to be the case. Therefore, the Commission expects this reporting requirement to have little impact on small businesses generally.

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 application to participate in competitive bidding for universal service support.

The Commission needs to use the retained information collections to determine whether applicants are legally, technically, and financially qualified to participate in a Commission auction for universal service support. The Commission's auctions, including the collection of information to determine applicants' qualifications to participate pursuant to Commission rules and requirements and to prevent prohibited communications, are designed to limit the competitive bidding to qualified applicants; to deter possible abuse of the bidding process; and to

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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.* We do not foresee any special circumstances with this information collection.
8. *Federal Register notice; efforts to consult with persons outside the Commission.* The Commission published a 60-day notice on June 20, 2017 (82 FR 28062). No PRA comments were received in response to this notice.
9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts aside from universal service support if they become winning bidders.
10. *Assurances of confidentiality.* Information collected in each application for universal service support will be made available for public inspection, and the Commission is not requesting that respondents submit confidential information to the Commission as part of the pre-auction application process. However, to the extent that a respondent seeks to have certain information collected on an application for universal service support withheld from public inspection, the respondent may request confidential treatment pursuant to 47 CFR § 0.459 of the Commission's rules.
11. *Questions of a sensitive nature.* The retained information collection requirements do not address any private matters of a sensitive nature.
12. *Estimates of the hour burden of the retained information collection to respondents.*
 - (1) Number of respondents: **Approximately 750 respondents annually.**
 - (2) Number of Annual Responses: **750 responses.**
 - (3) Frequency of response: On occasion reporting requirement.
 - (4) Annual burden per response and annual burden hours: Up to 1.5 hours per response. The annual burden hours are calculated as follows: 750 responses x 1.5 hours/response = 1,125 hours. Therefore, the total annual burden hours are up to **1,125 hours.**
 - (5) Annual "in-house" cost to respondents: **\$68,433.75.**

The Commission estimates that respondents will use staff equivalent to a GS-14/Step 5 (\$60.83/hour) Federal employee to complete and submit the application.

$$1,125 \text{ hours} \times \$60.83/\text{hour} = \$68,433.75$$

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TOTAL NUMBER OF RESPONDENTS: 750.

TOTAL NUMBER OF ANNUAL RESPONSES: 750.

TOTAL ANNUAL BURDEN HOURS: 1,125 HOURS.

TOTAL ANNUAL “IN-HOUSE” COST: \$68,433.75.

13. *Estimates of the cost burden of the revised collection to respondents.* There is external 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 retained information collections. The information collected 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 of the revised collection to the Commission.* The Commission estimates that on average staff review of the information collected in each application for universal service support, including time spent by staff attorneys, will take 1 hour 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: 750 applications x 1 hour/application x \$60.83 (Attorney, GS-14/Step 5) = \$45,622.50.

TOTAL ANNUAL COST TO THE GOVERNMENT: \$ 45,622.50

15. *Program changes or adjustment from the revised collection.* The Commission is requesting an increase in annual burdens for the revised collection. The currently approved collection requires a revision to remove the information collections requirements that apply specifically to applicants seeking to participate in competitive bidding for Mobility Fund Phase I and Tribal Mobility Fund Phase I support and to retain only the information collection requirements that apply generally to all applicants seeking to participate in competitive bidding for universal service support. While the Commission is requesting the removal of information collection requirements that are no longer needed for this collection, it is not requesting a decrease in annual burdens for these removals. The reason that there will not be a decrease in the burdens for the removed information collection requirements is because the retained information collection requirements will continue to apply to the same estimated number of respondents (150) and result in the same estimated number of annual responses (150). In addition, the removed information collection requirements will not substantially decrease the estimated average amount of time for respondents to comply with the requirements, resulting in the same estimated annual burden hours (225). The Commission is instead requesting an

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increase in respondents, annual responses, and annual burdens because it believes that the retained information collections will apply to a broader group of respondents. Therefore, the Commission has adjustments/increases to this collection as follows: increase the total number of respondents from 150 to 750 (+600), increase the annual number of responses from 150 to 750 (+600), and increase the annual burden hours from 225 to 1,125 (+900). There are no program changes to this collection.

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 any application to participate in competitive bidding for universal service support. 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 CFR § 0.408.

18. *Exception to the certification statement for Paperwork Reduction Act submissions.* There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.