

**SUPPORTING STATEMENT**

*New Collection Titled:* Application to Participate in a Toll Free Number Auction, FCC Form 833. This new request is being submitted to obtain Office of Management and Budget (OMB) approval for a new information collection requirement because of a series of Federal Communications Commission (Commission) decisions, as explained below.

**A. Justification:**

1. *Circumstances that make the collection necessary.* The Commission seeks emergency processing under the Paperwork Reduction Act (PRA), 5 U.S.C. § 1320.13. The Commission is requesting approval from OMB for this new information collection no later than 35 days after it is received at OMB.

In April 2017, the Commission's Wireline Competition Bureau released a *Toll Free Service Access Codes Order* (DA 17-382) in which it authorized the Toll Free Numbering Administrator, Somos, Inc. (Somos), to open a new 833 toll free code and to identify in the pre-code opening process numbers that could be part of an experiment on using an alternative, more market-driven and efficient, toll free number assignment process.<sup>1</sup> Somos subsequently identified over 17,000 toll free numbers in the 833 code for which multiple requests had been made, also called mutually exclusive numbers.

In September 2018, the Commission released a *Report and Order* (FCC 18-137) in which it, among other things, (1) established competitive bidding as a toll free number assignment method, (2) established the initial framework for an auction of the rights to use the mutually exclusive toll free numbers in the 833 code identified by Somos (833 Auction), (3) designated Somos to serve as the auctioneer for the 833 code toll free number auction, and (4) directed Somos to implement the procedures established by the Commission to conduct the auction. On August 1, 2019, the Commission adopted the *833 Auction Procedures Public Notice* (FCC 19-75), which established application and bidding procedures for the 833 Auction.

The Commission is seeking approval for the collection on FCC Form 833 of the disclosures and certifications described below that must be made by potential subscribers and Responsible Organizations (RespOrgs) to establish their qualifications to participate in the 833 Auction.<sup>2</sup>

Statutory authority for this information collection is contained in 47 U.S.C. §§ 151, 154(i), 201(b), and 251(e)(1).

The Commission is preparing a system of records notice (SORN) and a privacy impact assessment (PIA) to cover the personally identifiable information that may be collected, used, and stored as part of the information collection requirements.

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<sup>1</sup> See 47 CFR § 52.111 (stating that the Commission "will assign toll free numbers by competitive bidding, on a first-come, first-served basis, by an alternative assignment methodology, or by a combination of the foregoing options.").

<sup>2</sup> A potential subscriber can participate in the 833 Auction directly, by submitting its own application and bidding for all of the numbers in which it is interested, or indirectly, through a RespOrg that will bid on all the numbers in which the subscriber is interested in acquiring. A RespOrg is the "entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber." 47 CFR § 52.101(b).

***New information collection requirements for this collection:***

The information required of an applicant applying to participate in the 833 Auction is as follows:

- a. *Applicant Details:* All applicants must provide the name, address, and legal classification of the applicant; if the applicant is an entity, the name and title of the party responsible for the applicant must also be provided.
  - b. *Ownership Information:* An applicant must disclose the ownership information required by section 1.2112(a) of the Commission's rules, 47 C.F.R. §1.2112(a):
    - i. the real party or parties in interest of the applicant or in the application;
    - ii. any direct interest holder of 10% or greater;
    - iii. any indirect interest holder of 10% or greater; and
    - iv. any FCC-regulated entity or applicant for an FCC license in which the applicant, any real party in interest, or any direct interest holder of 10% or greater, owns 10% or more stock, whether voting or non-voting.
  - c. *Authorized Bidders:* All applicants must provide the name, email address, and mobile number of up to three authorized bidders.
  - d. *Bidding on Behalf of Other Entities:* If the applicant is a RespOrg that is bidding on behalf of a potential subscriber, the RespOrg applicant must provide the name of any entity on whose behalf it is bidding, and a letter of authorization granting the RespOrg authority to bid on behalf of the potential subscriber.
  - e. *Agreements with Other Parties / Bidding Arrangements:* An applicant must disclose, and provide the names of the parties to, any partnerships, joint ventures, consortia, or other agreements, arrangements, or understanding of any kind relating to the toll free numbers being auctioned, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including specific toll free numbers on which to bid or not bid), or post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant is a party.
  - f. *Toll Free Number Selection:* An applicant must upload a .CSV file of the toll free numbers on which it wishes to bid.
  - g. *Application Attachments:* The applicant may need to submit an attachment related to its indirect ownership and/or other attachments as applicable in support of its application.
  - h. *Certifications:* All applicants must make various certifications in their FCC Form 833 application.
2. *Use of information.* The Commission's rules and related requirements are designed to ensure that the competitive bidding process for assigning toll free numbers is limited to qualified applicants, deter possible abuse of the bidding process, and enhance the use of competitive bidding to assign toll free numbers in furtherance of the public interest. Applicants will use FCC Form 833 to submit the required disclosures and certifications, and the information collected on FCC Form 833 will then be reviewed to determine if an applicant is qualified to bid in the 833 Auction.

3. *Technological collection techniques.* Applicants will file FCC Form 833 electronically via a website portal administered by Somos on behalf of the Commission. This collection mechanism is being used to reduce the technological burden on the public, Somos, and the Commission.
4. *Efforts to identify duplication.* There will be no duplicative information collected. The information sought is unique to each respondent and is not already available because the Commission does not impose a separate similar information collection on the respondents. Thus, there is no similar data available under another information collection.
5. *Impact on small entities.* 833 Auction application submissions are voluntary, as submissions rest exclusively with respondents. In conformance with the Paperwork Reduction Act of 1995, the Commission has made an effort to minimize the burden on all respondents regardless of size by limiting the information collected on FCC Form 833 to that which is necessary to evaluate and process the application, deter possible abuse of the processes, and confirm applicants' compliance with various applicable 833 Auction requirements. In addition, the Commission will make available tutorials and related information to assist respondents, including small entities, in understanding what information should be submitted on FCC Form 833.
6. *Consequences if information is not collected.* The 833 Auction cannot occur without the collection of information on FCC Form 833. Without the information collected on FCC Form 833, a determination of whether the applicant is qualified to bid in the 833 Auction cannot be made.
7. *Special circumstances.* This new information collection does not have any of the characteristics that would require separate justification under 5 C.F.R. § 1320.5(d)(2).
8. *Federal Register notice; efforts to consult with persons outside the Commission.* Emergency approval is being sought for the above-described 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 published a 30-day emergency PRA notice in the Federal Register announcing submission of this emergency request and seeking public comment on the new information collection (*see* 84 FR 38629) (August 7, 2019).

The Commission will follow all of the regular OMB clearance processes and procedures for the revised information collection upon approval of its emergency request, and will publish the necessary notices in the Federal Register when seeking regular OMB approval.
9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gift to respondents with this collection of information.
10. *Assurances of confidentiality.* Information collected on FCC Form 833 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information as part of the pre-auction application process. For individuals, the Privacy Act, 5 U.S.C. § 552(a) is the statutory authority for confidentiality and applies to this information collection. To the extent the information submitted pursuant to this information collection is determined to be confidential, it will be protected by the Commission. If a respondent seeks to have certain information collected on FCC Form 833 withheld from public inspection, the respondent may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules. *See* 47 C.F.R. § 0.459. Additionally, as noted in question 1 above, the Commission is preparing a SORN and

PIA to cover the personally identifiable information that may be collected, used, and stored as part of the information collection requirements.

11. *Questions of a sensitive nature.* This collection of information does not ask questions of a sensitive nature.
12. *Estimates of the hour burden of the collection to respondents.* The following represents the hour burden for the new information collection:
  - a. Number of estimated annual respondents: 200. Any individual or entity seeking to become qualified to bid in the 833 Auction must file an FCC Form 833.
  - b. Total number of annual responses: 200.
  - c. Frequency of response: One-time. An applicant/respondent will file an FCC Form 833 only once to participate in the 833 Auction.
  - d. Total estimated annual burden: 1.5 hours per respondent for 200 respondents filing once. Total estimated annual hours burden is calculated as follows:

**200 estimated responses x 1.5 hours per response = 300 total estimated burden hours.**

- e. Total estimate of annual in-house cost to respondents for the hours burden: \$16,155.
- f. Explanation of calculation: The Commission expects that FCC Form 833 will typically be prepared by the respondent using existing in-house staff (e.g., paralegal or other legal staff member) at a rate equivalent to the hourly rate of a GS-13, Step 5 government staff member (\$53.85/hour). Therefore, the in-house cost is as follows:

**200 estimated responses x 1.5 hours per response x \$53.85/hour = \$16,155.**

13. *Estimates of the annual cost burden of the collection to respondents.* There is no external cost to respondents. Also, respondents should not incur capital and start-up costs or operation and maintenance for purchase of services in connection with responding to this new information collection. The information collected should be available and maintained as part of the customary and usual business or private practice of the respondent. Therefore, the Commission does not anticipate that respondents will need to hire contracting personnel to fulfill the requirements on behalf of respondents.

**Total Cost: \$0.**

**Total Capital and Start-up Costs or Operation and Maintenance (O&M): \$0.**

14. *Estimates of the cost burden to the Commission.* There will be few, if any, costs to the Commission because notice, enforcement, and policy analysis associated with toll free numbering administration—under which the 833 Auction falls—are already part of Commission duties. The program does not envision other costs, e.g., personnel or other resources from other government agencies or from the private sector because Somos, an outside party, will administer this program.

15. *Program changes or adjustments.* This is a new information collection resulting in a program change/increase of 200 respondents, 200 responses, and 300 total estimated burden hours.
16. *Collections of information whose results will be published.* The collected information will not be published for statistical use.
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 FCC Form 833 for this information collection. The Commission will use an edition date on FCC Form 833 in lieu of the OMB expiration date. Approval to not display the OMB expiration date on FCC Form 833 will prevent the Commission from having to update the OMB expiration date on the electronic FCC Form 833 in the event of a revision or extension of this collection. The Commission publishes a list of all OMB-approved information collections and their corresponding expiration dates in 47 C.F.R. 0.408 of the Commission's rules, 47 C.F.R. § 0.408, and will publish the OMB control number and OMB expiration date for this collection in the list contained in section 0.408 of its rules.
18. *Exceptions to certification statement for Paperwork Reduction Act submissions.* There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods:**

This information collection does not employ any statistical methods, and the use of such methods would not reduce the burden or improve accuracy of results.