

SUPPORTING STATEMENT

This new information collection is being submitted to obtain emergency approval from the Office of Management and Budget (OMB) for new information collection requirements due to recent Federal Communications Commission (Commission or FCC) orders, as explained below.

The new collection will determine the extent to which equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks or the communications supply chain exists in current networks, and the costs associated with removing such equipment and replacing it with equivalent equipment. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Report and Order, Order, and Further Notice of Proposed Rulemaking, FCC 19-121 (adopted Nov. 22, 2019).

A. Justification

1. *Circumstances that make the collection necessary.* The Communications Act of 1934, as amended, requires the “preservation and advancement of universal service.” 47 U.S.C. § 254(b). The information collection requirements reported under this collection are the result of FCC actions to promote the Act’s universal service goals.

On November 22, 2019, the Commission adopted a Report and Order, Order, and Further Notice of Proposed Rulemaking, WC Docket No. 18-89, FCC 19-121 (*Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*). The *Report and Order* prohibits future use of Universal Service Fund (USF) monies to purchase, maintain, improve, modify, obtain, or otherwise support any equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks or the communications supply chain. It also initially designates two entities – Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE), along with their affiliates, subsidiaries, and parents – as covered companies posing such a national security threat. In the *Further Notice*, the Commission proposes to make the requirement to remove covered equipment and services from carriers’ networks contingent on the availability of a funded reimbursement program, in an effort to mitigate the impact on affected entities. The *Order* establishes an information collection to determine the extent to which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. This information collection will aid our review of the record and guide our next steps in this proceeding.

New requirements for which we are seeking OMB approval:

The Commission initiates this collection to gather information from affected carriers as to whether they use or own equipment or services from Huawei or ZTE, the cost to purchase and/or install such equipment or services, and the cost to remove and replace such equipment or services. In addition, respondents must demonstrate how they arrived at any cost estimates they provide in response to this in-formation collection. A representative sample of the information to be collected is below:

- Necessary Identification/Process Information, including, company name, filer contact information, 499ID, information about certifying official, whether the submission is required or voluntary, company study-area codes, and Service

Provider Identification Numbers the company uses to conduct transactions with the Universal Service Administrative Company.

- Does this company, including its subsidiaries and affiliates, rely upon any equipment from Huawei Technologies Company (Huawei) and/or ZTE Corporation (ZTE)—or the subsidiaries, parents or affiliates of Huawei or ZTE — (hereinafter referred to as “covered companies”) to provide service?
- [For filers with covered equipment or services] Enter the sunk costs that the company incurred to purchase and install the equipment, software, and services made by covered companies in each of the five categories, rounded to the nearest [dollar/\$000]. Enter the estimated cost to remove and replace those equipment, software, and services in each of the five categories, rounded to the nearest [dollar/\$000]. (Information will be submitted via an online table that includes fields for equipment in use as well as equipment no longer in use.)
- Provide an explanation of how the company arrived at the cost figures provided in the table above (required for ETCs).
- Certification: By clicking on the Certify & Save button below, the company represents and warrants that the information provided complies with 47 CFR §1.17, which requires truthful and accurate statements to the Commission. The company also acknowledges that false statements and representations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action. I am authorized to complete this form on behalf of the company and in that capacity certify under penalty of perjury that the information provided is true and correct.

Instructions will be accessible to all filers on the Commission’s website providing further detail on how to respond to the information collection via the Commission’s online portal. Additionally, the Commission and the Universal Service Administrative Company will conduct outreach to affected ETCs to assist entities in responding to this information collection.

Statutory authority for this information collection is contained in 47 U.S.C. sections 1.4(b)(1), 1.103(a), 151-154, 201(b), 229, 254, and 1004.

This information collection does not affect individuals or households; thus, there is no impact under the Privacy Act.

2. *Use of Information:* The Commission will use the information to aid its review of the record and guide the next steps in the underlying proceeding.
3. *Technology collection techniques:* The Commission’s Office of Economics and Analytics is developing an electronic portal to be used by ETCs to submit the required information for this collection. All submissions will be made electronically.
4. *Efforts to Identify Duplication:* This will be the first time that ETCs will be required to identify whether they use or own equipment or services from Huawei or ZTE, the cost to purchase and/or install such equipment or services, and the cost to remove and replace such equipment or services. The information to be collected is unique to each ETC, and there are no similar collection requirements.

5. *Impact on Small Entities:* The collection of information may affect small entities as well as large entities. In establishing the information collection, the Commission noted that many carriers have installed equipment from either Huawei or ZTE; that replacement costs for such equipment may be significant for affected carriers; and that, though the overall number of affected carriers is likely small, the impact on individual carriers may be significant. The Commission seeks to collect information to assess the extent of the impact and possible ways to mitigate it.
6. *Consequences if information is not collected.* The information collected will be used to determine compliance with the rules for proper use of USF support. These requirements are intended, in part, as part of an effort, consistent with concurrent Congressional and Executive Branch actions, to ensure that the public funds used in the USF are not used in a way that undermines or poses a threat to national security. Without the requested information, the Commission will not be able to assess the extent to which equipment or services pose a national security threat to the integrity of communications networks, or establish a mechanism to authorize reimbursement to mitigate the impact on affected entities of the requirement to remove covered equipment and services from carriers' networks.
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.* Emergency approval is being sought for this 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 notice, announcing submission of this emergency request. See 84 Fed. Reg. 71935 (Dec. 30, 2019). The Commission will conduct all the regular OMB clearance processes and procedures upon approval of the emergency request. The Commission will publish the necessary notice(s) in the Federal Register when seeking regular OMB approval.

We received one comment in response to this notice. See Comments of Rural Wireless Association, Inc (RWA) (filed Jan. 29, 2020) (RWA Comments). RWA raises concerns about the estimated burden hours, carriers' ability to estimate costs, confidentiality of information, and FCC cost estimation and methodology.

First, RWA argues that carriers will need a minimum of one hour time burden for every cell site deployed. See RWA Comments at 4. While we acknowledge that some carriers may require more time to determine their cost estimates, our estimated burden hours are an average across the entire pool of respondents – not just for those carriers that have covered equipment in their network. We believe that the overwhelming majority of respondents will only need to certify that their network does not contain covered equipment, and will not have to conduct site inspections to make their certification. See *Protecting Against National Security Threats Order* at para. 115 (estimating that between 32-53 ETCs of the 2257 ETCs subject to the proposed information collection currently use covered equipment). Additionally, many respondents that do have covered equipment already maintain an inventory of their equipment, or are in the process of developing such an inventory in response to proposed legislation that would require companies with covered equipment to quickly submit estimates or invoices of the cost to replace that equipment in order to be reimbursed by the federal government. Alternatively, respondents could use, for example, network-management software to query the manufacturer of equipment in place in the network. RWA's analysis assumes that all carriers, including the vast majority of carriers

whose networks do not contain covered equipment, will be required to perform such site visits and would not otherwise do so in the absence of this information collection. This is inaccurate.

Second, RWA argues that it is difficult for carriers to determine who supplies their network components and to determine removal and replacement costs. As stated in the Commission's *Protecting Against National Security Threats Order*, we recognize that there may be issues with determining the upstream provider of equipment components. *Id.* at para. 70. However, it is the responsibility of USF recipients to work with their suppliers to understand what equipment and services they are purchasing. *Id.* We expect respondents to estimate their costs to remove and replace their equipment with comparable equipment and to explain how they derived their cost estimates. Although a small minority of respondents may find difficulty in estimating their costs, we believe that they can develop a reasonable replacement cost based on available information. Indeed, as discussed in the *Protecting Against National Security Threats Order*, at least seven carriers have already filed comments with the FCC providing estimated costs for removing and replacing covered equipment. *Id.* at para. 114.

Third, RWA raises concerns about the confidentiality of information collected and urges the Commission to prevent dissemination of proprietary information that would not otherwise be made public. See RWA Comments at 6. The mere fact of whether an ETC owns or uses covered equipment or services in its network is not subject to confidential treatment. See *Protecting Against National Security Threats Order*, para. 166 (“[T]he public interest in knowing whether a carrier uses [covered] equipment or services . . . would significantly outweigh any interest the carrier would have in keeping such information confidential.”). However, the Commission will treat as confidential any other filer-specific information submitted pursuant to this collection, subject to its rules and its standard procedures for Universal Service Fund programs. See 47 C.F.R. §§ 0.457, 0.459, 1.7001(d), 43.11(c); *Examination of the Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998). This filer-specific information includes information related to the historical cost of purchasing covered equipment and services, the replacement cost for such equipment and services, the specific nature of the covered equipment or service, and other granular information about covered equipment or services within ETC networks.

Finally, RWA raises concerns about the Commission's cost estimation and methodology and seeks “specific, uniform criteria for how respondents are to estimate cost figures.” RWA Comments at 6. As RWA notes, cost estimation is not a “one-size-fits-all” process and carriers may have different costs associated with replacing their equipment. The purpose of this information collection is to determine the extent to which potentially prohibited equipment exists in current networks and to estimate the aggregated costs associated with removing and replacing such equipment. The Commission believes that providing carriers with some flexibility to examine their specific needs will provide it with the best information going forward. Carriers are required to provide an explanation of how the company arrived at the cost figures provided so that the Commission may determine the reliability of submitted information.

9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gifts to respondents.
10. *Assurances of confidentiality.* The mere fact of whether an ETC owns or uses covered equipment or services in its network is not subject to confidential treatment. See *Protecting Against National Security Threats Order*, para. 166 (“[T]he public interest in knowing whether a

carrier uses [covered] equipment or services . . . would significantly outweigh any interest the carrier would have in keeping such information confidential.”). However, the Commission will treat as confidential any other filer-specific information submitted pursuant to this collection, subject to its rules and its standard procedures for Universal Service Fund programs. See 47 C.F.R. §§ 0.457, 0.459, 1.7001(d), 43.11(c); *Examination of the Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998). This filer-specific information includes information related to the historical cost of purchasing covered equipment and services, the replacement cost for such equipment and services, the specific nature of the covered equipment or service, and other granular information about covered equipment or services within ETC networks.

11. *Questions of a sensitive nature.* There are no questions of a sensitive nature with respect to the information collection requirements described herein.
12. *Estimates of the hour burden of the collection to respondents.* The following represents the hour burden on the collection of information:

- (1) Number of Respondents: Approximately 2,257 eligible telecommunications carriers.
- (2) Frequency of Response: One-time reporting requirement.
- (3) Total number of responses per respondent: 1.
- (4) Estimated time per response: 3 hours.
- (5) Total hour burden: One-time burden of 6,771 hours.

3 hours per response for 2,257 carriers. Total annual hour burden is calculated as follows:

2,257 respondents x 1 response per respondent = 2,257 responses x 3 hours = **6,771 total hours.**

- (6) Total estimate of in-house cost to respondents: \$364,618.35 (6,771 hours x \$53.85/hr.).
- (7) Explanation of calculation: We estimate that each carrier will take, on average, 3 hours per response. We estimate that respondents use mid- to senior-level personnel to comply with the requirements comparable in pay to the Federal Government, approximately \$53.85 per hour (equivalent to a GS 13, step 5 federal employee).

2,257 (number of responses) x 3 (hours to prepare response) x \$53.85/hr. = \$364,618.35

Total Number of Respondents: 2,257 unique respondents.

Total Number of Responses: 2,257

Total Hourly Burden: 6,771

Total In-House Costs to Respondents: \$364,618.35

13. *Estimates for the cost burden of the collection to respondents.* The Commission believes that ETCs have sufficient “in-house” staff to address all the information collection requirements using their “in-house” personnel rather than having to contract out this requirement. Thus:
 - (a) Total annualized capital/startup costs: \$0.00
 - (b) Total annualized costs (O&M): \$0.00
 - (c) Total annualized cost requested: \$0.00
14. *Estimates of the cost burden to the Commission.* Costs to the Commission will be somewhat mitigated because ensuring proper use of universal service support is already part of the Commission’s duties.
15. *Program changes or adjustments.* The Commission is reporting program changes/increases to this new information collection. These increases to the total number of respondents of +2,257, total annual responses of +2,257 and total annual burden hours of +6,771 will be added to OMB’s Active Inventory.
16. *Collections of information whose results will be published.* The Commission does not plan to make the individual ETC network information available to the public but may summarize that information and make it available.
17. *Display of expiration date for OMB approval of information collection.* There is no paper form associated with this information collection; it will be collected electronically through an online portal. The Commission seeks approval to not display the expiration date for OMB approval of this information collection. The Commission will use an edition date in lieu of the OMB expiration date. This will prevent the Commission from having to repeatedly update the expiration date on the portal 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. *Exceptions to certification 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.