

## **SUPPORTING STATEMENT**

### **A. Justification:**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

This information collection enables the Federal Communications Commission (Commission) to fulfill its continuing obligations under the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (2008) (NET 911 Act) to submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the use by states and other jurisdictions of funds raised for the support or implementation of 911 or Enhanced 911 (E911) services. Specifically, 47 U.S.C. § 615a-1(f)(2) required the Commission to report annually on the collection and distribution of such fees, including findings on the amount of revenues obligated or expended by each state “for any purpose other than the purpose for which any such fees or charges are specified.” The Commission has been submitting these reports on 911 fee diversion to Congress annually since 2009. In February 2021, the Office of Management and Budget (OMB) approved an extension without change of this information collection for three years. See ICR Reference No. 202102-3060-011.

In December 2020, Congress enacted the Don’t Break Up the T-Band Act of 2020 as part of the Consolidated Appropriations Act, 2021.<sup>1</sup> Section 902 of the new legislation requires the Commission to take additional steps to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911. In particular, section 902(c)(1)(C) adds a new paragraph (3)(A) to 47 U.S.C. § 615a-1(f) that directs the Commission to adopt rules “designating purposes and functions for which the obligation or expenditure of 9-1-1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable” for purposes of section 902 and the Commission’s rules. The newly added section 615a-1(f)(3)(B) states that these purposes and functions shall be limited to “the support and implementation of 9-1-1 services” provided by or in the state or taxing jurisdiction imposing the fee or charge, and “operational expenses of public safety answering points” within such state or taxing jurisdiction. Section 902 also amends 47 U.S.C. § 615a-1(f)(2) to require the Commission to report annually on the expenditure of 911 fees by states for any purpose or function other than those designated as acceptable in the final rules adopted by the Commission.

In addition, section 902(d)(2) provides that the Commission shall include in the annual 911 fee reports to Congress “all evidence that suggests the diversion by a State or taxing jurisdiction of 9-1-1 fees or charges, including any information regarding the impact of any underfunding of 9-1-1 services in the State or taxing jurisdiction.” See 47 U.S.C. § 615a-1 Statutory Notes. This

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<sup>1</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division FF, Title IX, Section 902, Don’t Break Up the T-Band Act of 2020 (section 902).

obligation applies beginning with the first annual report required to be submitted to Congress one year after the date of enactment of the new legislation.<sup>2</sup> Section 902(c)(1)(C) also provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942) after the date of the enactment of the new legislation, “such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the [annual report to Congress on 911 fees].” See 47 U.S.C. § 615a-1(f)(4).

On June 25, 2021, the Commission released a Report and Order adopting final rules implementing the provisions of section 902 that require Commission action. See *911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008*, PS Docket Nos. 20-291 and 09-14, Report and Order, FCC 21-80 (June 25, 2021) (Report and Order); see also 47 CFR part 9, subpart I.

The Commission is now seeking OMB approval to modify this existing information collection to reflect the new federal legislation and the Commission’s implementing rules. In particular, we seek approval to modify the annual questionnaire used as part of this information collection to explain the new legislation and rules and to seek information on whether states and other jurisdictions are using 911 fees solely for purposes and functions deemed acceptable in the rules. We also seek to modify the questionnaire to ask questions regarding underfunding of 911 services. In addition, we seek to modify the questionnaire in certain respects to streamline it and to make the Commission’s review process more efficient. We do not believe these modifications will change the burden hours associated with completing the questionnaire.

Finally, we also seek approval to modify this information collection to reflect the possibility that pursuant to section 902(c)(1)(C), some states or taxing jurisdictions will file the fee report questionnaire as a condition of receiving a grant under section 158 of the National Telecommunications and Information Administration Organization Act. See 47 U.S.C. § 615a-1(f)(4). There currently is no legislation funding such grants. In the event such grants are funded in the future, we estimate that 10 states or taxing jurisdictions per year will file the questionnaire on a one-time basis as a condition of receiving a grant, and we increase the burden estimate for this collection accordingly. (See response No. 12 below.) We do not believe these filings will result in any change in the annualized costs to the Federal government. (See response No. 14 below.)

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

Statutory authority for this information collection is contained in the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (2008) (NET 911 Act) and the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division FF, Title IX, Section 902, Don’t Break Up the T-Band Act of 2020 (section 902).

A copy of section 902 is available [here](#).

A copy of the relevant portion of the U.S. Code (47 U.S.C. § 615a-1, as amended by section 902) is available [here](#).

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<sup>2</sup> The new legislation was enacted on Dec. 27, 2020.

A copy of the Commission's Report and Order adopting final rules implementing the provisions of section 902 that require Commission action (FCC 21-80) is available [here](#).

- 2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information collected through the 911 fee questionnaire is necessary so that the Commission can, in a timely manner, meet its statutory obligation to submit an annual report to Congress "detailing the status in each State of the collection and distribution" of 911 fees or charges, "including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose or function other than the purposes and functions designated in [the Commission's final rules regarding acceptable purposes and functions for 911 fees or charges]." 47 U.S.C. § 615a-1(f)(2). The Commission will send the questionnaire to the appropriate state officials (*e.g.*, state 911 administrators and budget officials). In addition, consistent with the definition of "State" set forth in 47 U.S.C. § 615b, the Commission will send the questionnaire to appropriate officials in the District of Columbia and U.S. territories and possessions. See 47 U.S.C. § 615b; 47 CFR § 9.22 (definition of "State"). For the most recent annual fee report to Congress, the Commission sent the questionnaire to all 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, the U.S. Virgin Islands, and the Northern Mariana Islands, for a total of 56 respondents. See Twelfth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges at para. 4 (Dec. 8, 2020), <https://www.fcc.gov/files/12thannual911feereport2020pdf>.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other form of information technology *e.g.*, permitting electronic submission of responses, and the bases for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The Commission's Public Safety and Homeland Security Bureau will collect these reports through a physical survey (questionnaire) sent to States, the District of Columbia, and U.S. territories and possessions. Respondents that are subject to state regulations requiring the reporting of similar information may submit the state report, provided that such report includes the information that will enable the Commission to fulfill its statutory obligation to prepare an annual report to Congress "detailing the status in each State of the collection and distribution" of 911 fees or charges, "including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose or function other than the purposes and functions designated in [the Commission's final rules regarding acceptable purposes and functions for 911 fees or charges]." See 47 U.S.C. § 615a-1(f)(2); 47 CFR part 9, subpart I.

Respondents will be able to access the questionnaire via a web-based link, and they will be able to submit their responses electronically.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

As noted in response No. 3 above, if respondents are subject to state regulations requiring the reporting of similar information, submission to the Commission of such a report may meet the Commission's needs for fulfilling its statutory obligation to prepare an annual report to Congress on 911 fees and charges. This is contingent on such a state report containing the relevant information necessary for the Commission to prepare a report "detailing the status in each State of the collection and distribution" of 911 fees or charges, "including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose or function other than the purposes and functions designated in [the Commission's final rules regarding acceptable purposes and functions for 911 fees or charges]." (See 47 U.S.C. § 615a-1(f)(2); 47 CFR part 9, subpart I.) This information is not otherwise available elsewhere. This is a unique information collection that does not duplicate existing data. This information collection was created specifically to meet the reporting requirements of the NET 911 Act as amended by section 902, and the Commission must submit this information to Congress annually.

**1. If the collection of information will have significant economic impacts on small businesses, organizations, or other small entities, describe any methods used to minimize the burden on these entities.**

The collection of information will not have significant economic impacts on small businesses, organizations, or other small entities. The proposed information collection does not seek information from small businesses. To the extent that small government entities are the relevant source for the information the Commission seeks, it is likely that these entities already gather this information as part of the normal course of conducting their administrative affairs, including maintenance of information regarding the collection and expenditure of revenues. Accordingly, it is reasonable to expect that for government entities of any size, the reporting, recordkeeping, or disclosure activities needed to comply with this information collection are "usual and customary" and thus do not constitute a "burden" under 5 CFR § 1320.3(b)(2).

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If the collection is not conducted or is conducted less frequently, the Commission will be unable to meet its statutory obligation to prepare an annual report to Congress "detailing the status in each State of the collection and distribution" of 911 fees or charges, "including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose or function other than the purposes and functions designated in [the Commission's final rules regarding acceptable purposes and functions for 911 fees or charges]." See 47 U.S.C. § 615a-1(f)(2). The information sought by the Commission is essential to its compliance with the 911 fee reporting obligation of the NET 911 Act, as amended by section 902.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR § 1320.5(d)(2).**

Consistent with section 1320.5(d)(2) of OMB's regulations under the Paperwork Reduction Act (PRA), this collection of information is "necessary to satisfy statutory requirements." (5 CFR § 1320.5(d)(2).) This information collection is tailored strictly for the purpose of compliance with the Commission's statutory obligation under the Net 911 Act (as amended by section 902) to produce an annual report to Congress on 911 fees. In addition, there are no special circumstances that would cause this information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR § 1320.5(d)(2).

**1. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR § 1320.8(d), soliciting comments on the information prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

Pursuant to the PRA, the Commission issued a 60-day Federal Register notice on August 24, 2021 (86 FR 47306) seeking comments on the burden of complying with the information. No PRA comments were received as a result of the notice.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift to respondents has been or will be made.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

There have been no assurances of confidentiality provided to respondents. The Commission's rules address the issue of confidentiality at sections 0.457, 0.459, and 0.461 (47 CFR §§ 0.457, 0.459, and 0.461). These rules address access to records that are not routinely available to the public, requests and requirements that materials submitted to the Commission be withheld from public inspection, and requests for inspection of materials not routinely available for public inspection.

**11. Provide additional justification for any questions of a sensitive nature.**

The reporting requirement does not entail questions of a sensitive nature that are commonly considered private, beyond the national security and commercial basis for confidentiality that is covered by response No. 10 above.

**12. Provide estimates of the burden hours of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour**

**burden, and an explanation of how the burden was estimated. If the burden hours for respondents are expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden hours and explain the reasons for the variance.**

The Commission does not believe that this information collection as modified will change the estimated burden associated with annual filing of the fee report questionnaire. However, we estimate that the burden may increase in connection with one-time filing of the questionnaire by some states or taxing jurisdictions as a condition of receiving federal grants. In particular, section 902 provides that states or taxing jurisdictions that receive grants in the future under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942) must, as a condition of receiving such grants, provide the information requested by the Commission to prepare the annual 911 fee report. See 47 U.S.C. § 615a-1(f)(4). There currently is no legislation funding such grants. In the event such grants are funded in the future, we estimate that 10 states or taxing jurisdictions per year will file the questionnaire on a one-time basis as a condition of receiving a grant.

**Annual reporting obligation:** We continue to estimate that **56** respondents will file the fee report questionnaire on an annual basis. The estimated burden will be **55 hours** per response. Thus, we estimate that the respondents will take a total of **3,080 burden** hours to review and complete their reports in response to the fee report questionnaire sent to them pursuant to the NET 911 Act, as amended by section 902. This estimate is based on Commission staff's knowledge and familiarity with the availability and accessibility of the data required to fulfill the information collection.

**Total number of Respondents and Responses: 56**

**Total Annual Burden Hours: 56 responses x 55 hours = 3,080 hours**

We assume that each respondent will have one accountant and one attorney participate in the information collection and assume that the salaries are equivalent to GS-13, step 10 and GS-15, step 5 respectively. Thus, we estimate that the total "in-house" cost to all respondents for annual reporting will be:

Specialist at \$138,868/year (\$66.54 /hour)       $66.54 \times 1,540 \text{ hours} = \$102,471.60$

Attorney at \$168,282/year (\$80.63/hour)       $80.63 \times 1,540 \text{ hours} = \$124,170.20$

**Total In-House Costs for Annual Reporting: \$102,471.60 + \$124,170.20 = \$226,641.80**

**One-time reporting obligation:** We estimate that 10 states or taxing jurisdictions per year will file the questionnaire on a one-time basis as a condition of receiving a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942), should Congress fund such grants in the future. Thus, we estimate that the total "in-house" cost to these respondents for this one-time reporting will be:

**Total number of Respondents and Responses: 10**

**Total Annual Burden Hours: 10 responses x 55 hours = 550 hours**

Specialist at \$138,868/year (\$66.54/hour)  $\$66.54 \times 275 \text{ hours} = \$18,298.50$

Attorney at \$168,282/year (80.63/hour)  $\$80.63 \times 275 \text{ hours} = \$22,173.25$

**Total In-House Costs for One-time Reporting:  $\$18,298.50 + \$22,173.25 = \$40,471.75$**

**In-House Costs for All Reporting:**

**Total number of Respondents and Responses:  $56 + 10 = 66$**

**Total Annual Burden Hours:  $66 \text{ responses} \times 55 \text{ hours} = 3,630 \text{ hours}$**

**Total In-House Costs for All Reporting:  $\$226,641.80 + \$40,471.75 = \$267,113.55$**

- 13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).**

The Commission does not believe that this information collection as modified will impose any cost burden on respondents from either capital or start-up costs, or from operation and maintenance of equipment, or from purchase of outside services.

- 14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expenses that would not have been incurred without this collection of information.**

We do not believe this modification will change the estimated total annual cost to the Federal government. Based on the salaries of one attorney (GS-15, step 5) and one public utility specialist (GS-13, step 10), with each staff person spending approximately  $\frac{1}{4}$  (520 hours) of their work time on the information collected, the total annual cost to the Federal government will continue to be:

Specialist GS-13, step 10 at \$66.54/hr wage  $\$66.54 \times 520 = \$34,600.80$

Attorney GS-15, step 5 at \$80.63/hr wage  $\$80.63 \times 520 = \$41,927.60$

$\$34,600.80 + \$41,927.60 + 22,958.52 \text{ (30\% overhead)} = \$99,486.92$

Total Cost to the Federal government = **\$99,486.92**

- 15. Explain the reasons for any program changes or adjustments reported.**

There is a reported program change for this information collection. The Commission's previous burden estimate is increasing from **3,080 hours** to **3,630 hours** (an increase of **550 hours**). The total number of respondents and responses per year is increasing from **56** to **66** (an increase of 10

respondents/responses).

The reason for this program change is that under section 902(c)(1)(C), a state or taxing jurisdiction that receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942) after the date of the enactment of section 902 must, “as a condition of receiving such grant,” provide the information requested by the Commission to prepare the annual fee report to Congress. See 47 U.S.C. § 615a-1(f)(4).

There currently is no legislation funding such grants. In the event such grants are funded in the future, the Commission estimates that 10 states or taxing jurisdictions per year will file the fee report questionnaire on a one-time basis as a condition of receiving a grant, and we are increasing the burden estimate for this collection accordingly.

**16. For collections of information whose results will be published, outline plans for tabulation and publication.**

Pursuant to the NET 911 Act as amended by section 902, the Commission is required to report the results of the collection to Congress on July 22, 2009, and once annually thereafter.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The Commission will display the expiration date of the information collection from OMB.

**18. Explain any exceptions to the statement certifying compliance with 5 CFR § 1320.9 and the related provisions of 5 CFR § 1320.8(b)(3).**

There are no exceptions to the certification statement.

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

This information collection does not employ any statistical methods.