

SUPPORTING STATEMENT

A. Justification

1. Title IV of the Americans with Disabilities Act of 1990 (ADA), adding section 225 to the Communications Act of 1934, as amended (Act), requires that:
 - (a) The Commission ensures that telecommunications relay service (TRS)¹ is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities in the United States;² and
 - (b) TRS offers persons with hearing and speech disabilities telephone transmission services that are “functionally equivalent” to voice telephone services.³

Video Relay Service

In March 2000, the Commission recognized Video Relay Service (VRS) as a form of TRS.⁴ VRS requires the use of a broadband Internet connection between the VRS user and the CA, which allows the VRS user and the CA to communicate in sign language via the video link. During the call, the CA communicates in American Sign Language (ASL) with the deaf person and by voice with the hearing person. As a result, the conversation between the deaf and hearing end users follows in near real time.

On May 27, 2010, in document FCC 10-88,⁵ the Commission released an *Order* adopting an interim rule – containing an information collection requirement -- designed to help prevent fraud and misuse in the provision of VRS. Though the *Order* emphasizes VRS, the rule also applies to all other forms of TRS.

Specifically, the interim rule requires the Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a relay service provider to certify, under penalty of perjury, that: (1) minutes submitted to the Interstate TRS Fund (Fund) administrator for compensation were handled in compliance with section 225 of the Act and the Commission’s rules and orders, and are not the result of impermissible financial incentives, or payments or kickbacks, to generate calls, and (2) cost and demand data submitted to the Fund

¹ TRS is a telephone transmission service that allows persons with a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. See 47 CFR 64.601(21). TRS facilities are staffed by communications assistants (CAs) who relay conversations between people who use text telephone devices (TTY’s) or other devices and people who communicate by voice.

² 47 U.S.C. § 225(b)(1).

³ 47 U.S.C. § 225(a)(3).

⁴ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5152-54, paras. 21-27 (2000); 47 C.F.R. 64.601(26) (defining VRS).

⁵ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Declaratory Ruling, Order, and Notice of Proposed Rulemaking, 25 FCC Rcd 6012 (2010).

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administrator related to the determination of compensation rates or methodologies are true and correct.⁶

Also in document FCC 10-88,⁷ the Commission released a *Notice of Proposed Rulemaking (NPRM)*. In the accompany *NPRM*, the Commission sought comment on ways to amend its rules to detect and prevent fraud and misuse in the provision of VRS. The *NPRM* contained potential information collection requirements with respect to the proposed rules. Though the *NPRM* emphasized VRS, many of the proposals would also apply to other or all forms of TRS.

Below, outlines the interim and proposed information collection requirements contained in document FCC 10-88 that sought OMB approval and later were adopted as final rules in FCC 11-54:

A. Provider Certification Under Penalty of Perjury.

The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a TRS provider shall certify, under penalty of perjury, that: (1) minutes submitted to the Interstate TRS Fund (Fund) administrator for compensation were handled in compliance with section 225 of the Act and the Commission's rules and orders, and are not the result of impermissible financial incentives, or payments or kickbacks, to generate calls, and (2) cost and demand data submitted to the Fund administrator related to the determination of compensation rates or methodologies are true and correct.⁸

B. Requiring Providers to Submit Information about New and Existing Call Centers

(1) VRS providers shall submit a written statement to the Commission and the TRS Fund administrator containing the locations of all of their call centers that handle VRS calls, including call centers located outside the United States, twice a year, on April 1st and October 1st. In addition to the street address of each call center, the rules require that these statements contain (1) the number of individual CAs and CA managers employed at each call center; and (2) the name and contact information (phone number and email address) for the managers at each call center.

(2) VRS providers shall notify the Commission and the TRS Fund administrator in writing at least 30 days prior to any change to their call centers' locations, including the opening, closing, or relocation of any center.

⁶ In this *Order*, the Commission permanently adopted the interim rule as a final rule, requiring the CEO, CFO, or other senior executive of a TRS provider with first hand knowledge of the accuracy and completeness of the information provided, to make the required certifications under penalty of perjury.

⁷ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51. Declaratory Ruling, Order, and Notice of Proposed Rulemaking, 25 FCC Rcd 6012 (2010).

⁸ OMB approved the information collections at the interim stage. By adoption of this *Order*, this requirement becomes a final rule and the specifications of the requirement remains unchanged, however, the burden for the information collection requirement increases slightly due to the number of respondents that are now being compensated from the Interstate TRS Fund.

Structure and Practices of the Video Relay Service Program; CG Docket No. 10-51**C. Data Filed with the Fund Administrator to Support Payment Claims**

TRS providers shall provide the following data associated with each TRS call for which a TRS provider seeks compensation in its filing with the Fund Administrator: (1) the call record ID sequence; (2) CA ID number; (3) session start and end times; (4) conversation start and end times; (5) incoming telephone number and IP address (if call originates with an IP-based device) at the time of call; (6) outbound telephone number and IP address (if call terminates to an IP-based device) at the time of call; (7) total conversation minutes; (8) total session minutes; (9) the call center (by assigned center ID number) that handles the call; and (10) the URL address through which the call was initiated.

In addition, all VRS and IP Relay providers shall submit speed of answer compliance data to the Fund administrator.

D. Automated Call Data Collection

TRS providers shall use an automated record keeping system to capture the following data when seeking compensation from the Fund: (1) the call record ID sequence; (2) CA ID number; (3) session start and end times, at a minimum to the nearest second; (4) conversation start and end times, at a minimum to the nearest second;⁹ (5) incoming telephone number (if call originates with a telephone) and IP address (if call originates with an IP-based device) at the time of the call; (6) outbound telephone number and IP address (if call terminates to an IP-based device) at the time of call; (7) total conversation minutes; (8) total session minutes; and (9) the call center (by assigned center ID number) that handles the call.

E. Record Retention

Internet-based TRS providers shall retain the following data that is used to support payment claims submitted to the Fund administrator for a minimum of five years, in an electronic format: (1) the call record ID sequence; (2) CA ID number; (3) session start and end times; (4) conversation start and end times; (5) incoming telephone number and IP address (if call originates with an IP-based device) at the time of call; (6) outbound telephone number and IP address (if call terminates with an IP-based device) at the time of call; (7) total conversation minutes; (8) total session minutes; and (9) the call center (by assigned center ID number) that handles the call.

⁹ The Interstate TRS Fund compensates for conversation minutes, which begin when the called party answers the outbound telephone call from the CA and end when either party to the call hangs up. See generally 47 C.F.R. § 64.604(c)(5)(iii)(E). Conversation minutes do not include time for call set-up, ringing, waiting for an answer, and wrap-up, or calls that reach a busy signal or no answer. This is compared to session minutes, which do include these tasks, to the extent they are necessary to dial and set up a call. We note that the requirement we adopt above to capture conversation and session start and end times to the nearest second are minimum thresholds only, and that providers are free to exceed this measurement by automatically capturing shorter periods of time for these start and end times, for example to the nearest 10th, 100th, or even thousandth of a second.

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On April 6, 2011, in document FCC 11-54, the Commission released a *Report and Order* adopting final rules – which includes the adoption of the interim rule, several new information collection requirements; and all the proposed information collection requirements, *except* the “*Transparency and the Disclosure of Provider Financial and Call Data*” requirement.

Below are the additional *new* information collection requirements designed to eliminate fraud and abuse in the provision of VRS, and to ensure the sustainability and integrity of the TRS program and the TRS Fund:

F. Third-party Agreements

(1) VRS providers shall maintain copies of all third-party contracts or agreements so that copies of these agreements will be available to the Commission and the TRS Fund administrator upon request. Such contracts or agreements shall provide detailed information about the nature of the services to be provided by the subcontractor.

(2) VRS providers shall describe all agreements in connection with marketing and outreach activities, including those involving sponsorships, financial endorsements, awards, and gifts made by the provider to any individual or entity, in the providers’ annual submissions to the TRS Fund administrator.

G. Whistleblower Protection

TRS providers shall provide information about these TRS whistleblower protections, including the right to notify the Commission’s Office of Inspector General or its Enforcement Bureau, to all employees and contractors, in writing. Providers that already disseminate their internal business policies to their employees in writing (*e.g.* in employee handbooks, policies and procedures manuals, or bulletin board postings – either online or in hard copy) must also explicitly include these TRS whistleblower protections in those written materials.

H. Required Submission for Waiver Request

Potential VRS providers wishing to receive a temporary waiver of the provider’s eligibility rules, shall provide, in writing, a description of the specific requirement(s) for which it is seeking a waiver, along with documentation demonstrating the applicant’s plan and ability to come into compliance with all of these requirements (other than the certification requirement) within a specified period of time, which shall not exceed three months from the date on which the rules become effective. Evidence of the applicant’s plan and ability to come into compliance with the new rules shall include the applicant’s detailed plan for modifying its business structure and operations in order to meet the new requirements, along with submission of the following relevant documentation to support the waiver request:

- a copy of each deed or lease for each call center operated by the applicant;
- a list of individuals or entities that hold at least a 10 percent ownership share in the applicant’s business and a description of the applicant’s organizational structure, including the names of its executives, officers, partners, and board of directors;
- a list of all of the names of applicant’s full-time and part-time employees;

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- proofs of purchase or license agreements for use of all equipment and/or technologies, including hardware and software, used by the applicant for its call center functions, including but not limited to, automatic call distribution (ACD) routing, call setup, mapping, call features, billing for compensation from the TRS fund, and registration;
- copies of employment agreements for all of the provider's executives and CAs;
- a list of all financing arrangements pertaining to the provision of Internet-based relay service, including documentation on loans for equipment, inventory, property, promissory notes, and liens;
- copies of all other agreements associated with the provision of Internet-based relay service; and
- a list of all sponsorship arrangements (*e.g.*, those providing financial support or in-kind interpreting or personnel service for social activities in exchange for brand marketing), including any associated agreements.

On May 9, 2011, the Commission received emergency approval from the Office of Management and Budget for: ***H - Required Submission for Waiver Request information collection requirement.***

On May 31, 2011, the Commission, on its own motion, stayed the effective date of section 64.604 (c)(5)(iii)(N)(1)(iii),¹⁰ of one of its new VRS provider's eligibility rules, as adopted in FCC 11-54, released April 6, 2011, until October 1, 2011, which prohibits certain revenue sharing arrangements. The rule states that "an eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services or call center functions (including call distribution, routing, call setup, mapping, call features, billing for compensation from the TRS Fund, and registration) on its behalf unless that third party also is an eligible provider."¹¹ Since section 64.604 (c)(5)(iii)(N)(1)(iii) did not become effective on June 1, 2011, but is stayed until October 1, 2011, the required submission for waiver for one of the components regarding the new VRS provider is no longer necessary; hence, the burden herein for this requirement will decrease accordingly to account for the number of waiver submissions filed by VRS providers relating to other parts of the new VRS provider eligibility rules.

NOTE: The Commission sought and received OMB final approval for all of the requirements contained in this supporting statement on September 16, 2011.

These information collections do not affect individuals or households, and thus, there are no impacts under the Privacy Act. However:

- (a) Information that is related to individuals or households is collected by a third party, TRS providers, and the Fund administrator; and

¹⁰ This rule was originally scheduled to become effective on June 1, 2011.

¹¹ *Structure and Practices of the Video Relay Service Program*, FCC 11-86, CG Docket No. 10-51, Order Suspending Effective Date, adopted and released May 31, 2011.

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- (b) The Commission has no direct involvement in the collection of this information on individuals and households.¹²

The statutory authority for the information collection is found at section 225 of the Act, 47 U.S.C. § 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101-336, 104 Stat. 327, 366-69.

2. This final requirement will help the Commission and Fund administrator further detect and deter the misuse of relay and the billing of illegitimate minutes to the Fund as one part of the Commission's goals of ensuring that VRS is available to, and used by, the full spectrum of eligible users, encourages innovation, and is provided efficiently so as to be less susceptible to the waste, fraud, and abuse that threaten its long-term viability.
3. Providers may submit this certification electronically as part of their electronic submission of call data as well as in hard copies.
4. The information is not duplicated elsewhere. This requirement augments previous certification requirements.
5. There will be no significant economic impact on small businesses or small entities.
6. If this information collection is not conducted, the Commission and Fund administrator would have less of a basis to detect and prevent fraud and misuse in the provision of relay.
7. This collection would require respondents to report information to the agency more often than quarterly. This is pursuant to established procedures whereby providers submit data on a monthly basis in support of requests for payment from the Fund. If the reporting occurred only quarterly or less frequently, providers would not get reimbursed from the Fund on the monthly basis they do now.
8. Pursuant to 5 C.F.R. § 1320.8, the Commission placed a notice in the *Federal Register* on May 2, 2011 at 76 FR 24482, seeking comments from the public on the information collection requirements contained in this supporting statement. No comments were received.

¹² Although the FCC has no direct involvement in the collection of this information on individuals or households, the Commission does require the TRS providers to abide by the requirements of 47 C.F.R. 64.604(a)(2), which states that:

- CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for Speech-to-Speech CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law;
- CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call;
- Appropriate measures must be taken by relay providers to ensure that confidentiality of TRS users is maintained.

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9. The Commission does not anticipate providing any payment or gift to any respondents.
10. The Fund administrator keeps all data obtained from TRS providers confidential and does not disclose such data in company-specific form unless directed to do so by the Commission.¹³
11. This information collection does not address any private matters of a sensitive nature.
12. The following represents the estimates of the hour burdens of the newly added and slightly revised information collection as set forth by the *Report and Order*. Overall, the Commission estimates that there are 14 TRS providers that will be affected by this collection.

New and Revised Information Collections Requirements adopted by the (2011 Structure and Practices of Video Relay Service Report and Order, FCC 11-54)

Of the 14 TRS providers (respondents), the Commission estimates that:

- 1 provides all six interstate or IP-based forms of TRS;¹⁴
- 1 provides five forms (all but VRS);
- 2 provide four forms (all but both forms of CTS);
- 3 provide three forms (2 provide interstate TRS, CTS, and STS; 1 provides IP Relay, IP CTS, and VRS);
- 3 provide two forms (2 provide IP Relay and VRS; 1 provides interstate TRS and STS); and
- 4 provide one form (VRS).

¹³ The Commission believes, therefore, that 47 C.F.R. 64.604(a)(2) provides sufficient safeguards to protect the information on individuals or households that providers collect as part of their responsibilities, which relieves the Commission of its requirement to complete a privacy impact assessment.

¹⁴ See note 8, *supra*.

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Below are the estimated burdens associated with the information collections set forth by the Report and *Order*:

A. Provider Certification Under Penalty of Perjury¹⁵**Annual Number of Respondents: 14**

(1) The Commission estimates that each respondent will require approximately .017 hours (1 minute) to certify its submissions under penalty of perjury on a monthly basis.

Annual Burden Hours: 14 respondents x .017 hrs/response/month x 12 months/yr = 2.86 hrs/yr

Annual Number of Responses: 14 respondents x 1 response/month x 12 months/yr = 168 responses/yr

(2) The Commission estimates that each respondent will require approximately .017 hours (1 minute) to certify its annual submission of cost and demand data under penalty of perjury.

Annual Burden Hours: 14 respondents x .017 hrs/response/year = 0.24 hrs/yr

Annual Number of Responses: 14 respondents x 1 response/year = 14 responses/yr

Total Annual Burden Hours: 2.86 hrs/yr + 0.24 hrs/yr = 3.1 hrs/yr (**3 hours/year**)

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) for signing the certification.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete the requirements:

Annual “In-House” Cost: 3 hrs/yr x \$87.37/hour = \$262.11

B. Requiring Providers to Submit Information about New and Existing Call Centers**Annual Number of Respondents: 10**

(1) The Commission estimates that each respondent will require approximately 14 hours to complete the compilation and submission of a statement detailing the street address of each call center the provider owns, the number of CAs and CA managers employed at each call center, and the name and contact information for the (phone number and email address) managers of each call center twice a year.

Annual Number of Responses: 10 respondents x 1 response x 2 times/yr = 20 responses/yr

Annual Number of Burden Hours: 10 respondents x 14 hrs x 2 times/yr = 280 hrs/yr

¹⁵ See fn. 14.

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The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete the compilation and submission of a statement regarding call center information twice a year.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 280 hrs/yr x \$87.37 = \$24,463.60

(2) The Commission estimates that each respondent will require approximately .50 hours (30 minutes) to file a letter of notification to the Commission and the TRS Fund administrator of any change to their call centers’ locations, including the opening, closing, or relocation of any center. The Commission further estimates that each respondent may file one such letter of notification twice a year.

Annual Number of Responses: 10 respondents x 1 response x 2 times/yr = 20 responses/yr

Annual Number of Burden Hours: 10 respondents x .50 hr x 2 times/yr = 10 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to file a letter of notification each time there is a change in call centers’ locations, including the opening, closing or relocation of any center.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 10 hrs/yr x \$87.37 = \$873.70

C. Data Filed with the Fund Administrator to Support Payment Claims¹⁶**Annual Number of Respondents: 14**

(1) The Commission estimates that each respondent will be required to submit specified call data in order to be compensated from the Fund.

Annual Number of Responses (1 response/form of TRS x 12 months): 6 forms of TRS (1 provider) + 5 forms of TRS (1 provider) + 4 forms of TRS (2 providers) + 3 forms of TRS (3 providers) + 2 forms of TRS (3 providers) + 1 form of TRS (4 providers) = 6 + 5 + 8 + 9 + 6 + 4 = 38; 38 x 12 = 456 responses/yr

Annual Number of Burden Hours: 360 + 300 + 480 + 540 + 360 + 240 = 2,280 hrs/yr

¹⁶ The rule setting forth these requirements has been re-designated from 47 CFR 64.604(c)(5)(iii)(C)(2) to 47 CFR 64.604(c)(5)(iii)(D)(2), due to new rules adopted in a separate proceeding involving non-interconnected VoIP providers’ obligation to contribute to the Interstate TRS Fund.

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The Commission estimates that each respondent will require approximately 5 hours per data submission per form of TRS to complete the compilation and submission of call data on a monthly basis:

- Six forms of TRS: 1 respondent x 6 forms of TRS x 5 hrs/data submission/form of TRS x 12 months = 360 hrs/yr
- Five forms of TRS: 1 respondent x 5 forms of TRS x 5 hrs/data submission/form of TRS x 12 months = 300 hrs/yr
- Four forms of TRS: 2 respondents x 4 forms of TRS x 5 hrs/data submission/form of TRS x 12 months = 480 hrs/yr
- Three forms of TRS: 3 respondents x 3 forms of TRS x 5 hrs/data submission/form of TRS x 12 months = 540 hrs/yr
- Two forms of TRS: 3 respondents x 2 forms of TRS x 5 hrs/data submission/form of TRS x 12 months = 360 hrs/yr
- One form of TRS: 4 respondents x 1 form of TRS x 5 hrs/data submission/form of TRS x 12 months = 240 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to compile and submit specified call data.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 2,280 hrs x \$87.37/hr = \$199,203.60

(2) There are 11 providers (respondents) that provide VRS and/or IP Relay; 6 provide both, and 5 provide one or the other. The Commission requires providers to submit speed of answer compliance data for each of these services.

Annual Burden Hours: 720 + 300 = 1,020 hrs/yr

The Commission estimates that 11 VRS and/or IP Relay respondents will require approximately 5 hours per form of TRS to complete the compilation and submission of speed of answer compliance data on a monthly basis.

Providers offering both: 5 hrs/month/VRS + 5 hrs/month/IP Relay = 10 hrs/month

Providers offering one or the other: 5 hrs/month/VRS or IP Relay = 5 hrs/month

6 respondents x 10 hrs/month (to complete 2 reports) x 12 months = 720 hrs/yr

5 respondents x 5 hrs/month (to complete 1 report) x 12 months = 300 hrs/yr

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Annual Number of Responses: $144 + 60 = 204$ responses/yr

6 respondents x 2 responses/month x 12 months = 144 responses/yr

5 respondents x 1 response/month x 12 months = 60 responses/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete the compilation and submission of data.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: $1,020 \text{ hrs/yr} \times \$87.37 = \$89,117.40$

(3) The Commission estimates that each respondent will require approximately .50 hours (30 minutes) per form of TRS to electronically submit the call record and speed of answer data on a monthly basis:

Annual Burden Hours: $36 + 30 + 48 + 54 + 36 + 24 = 228$ hrs/yr

- Six forms of TRS: 1 respondent x .50 hrs/month/form of TRS x 6 forms of TRS x 12 months/yr = 36 hrs/yr
- Five forms of TRS: 1 respondent x .50 hrs/month/form of TRS x 5 forms of TRS x 12 months/yr = 30 hrs/yr
- Four forms of TRS: 2 respondents x .50 hrs/month/form of TRS x 4 forms of TRS x 12 months/yr = 48 hrs/yr
- Three forms of TRS: 3 respondents x .50 hrs/month/form of TRS x 3 forms of TRS x 12 months/yr = 54 hrs/yr
- Two forms of TRS: 3 respondents x .50 hrs/month/form of TRS x 2 forms of TRS x 12 months/yr = 36 hrs/yr
- One form of TRS: 4 respondents x .50 hrs/month/form of TRS x 1 form of TRS x 12 months/yr = 24 hrs/yr

Annual Number of Responses (1 response/form of TRS x 12 months): 6 forms of TRS (1 provider) + 5 forms of TRS (1 provider) + 4 forms of TRS (2 providers) + 3 forms of TRS (3 providers) + 2 forms of TRS (3 providers) + 1 form of TRS (4 providers) = $6 + 5 + 8 + 9 + 6 + 4 = 38$; $38 \times 12 = 456$ responses/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to electronically submit the call record and speed of answer data.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: $228 \text{ hrs/yr} \times \$87.37 = \$19,920.36$

Structure and Practices of the Video Relay Service Program; CG Docket No. 10-51**D. Automated Call Data Collection****Annual Number of Respondents: 14**

The Commission estimates that respondents will require approximately 25 hours per form of TRS offered to complete the implementation of technology that allows automatic capture of the session and conversation times, to the nearest second, and all other data required in the *Report and Order* for each call.

The implementation will be performed on a one-time basis.

Annual Number of Responses: 14

Annual Number of Burden Hours (One-time): $150 + 125 + 200 + 225 + 150 + 100 = 950$ hrs:

- Six forms of TRS: 1 respondent x 6 forms of TRS x 25 hrs/form of TRS = 150 hrs
- Five forms of TRS: 1 respondent x 5 forms of TRS x 25 hrs/form of TRS = 125 hrs
- Four forms of TRS: 2 respondents x 4 forms of TRS x 25 hrs/form of TRS = 200 hrs
- Three forms of TRS: 3 respondents x 3 forms of TRS x 25 hrs/form of TRS = 225 hrs
- Two forms of TRS: 3 respondents x 2 forms of TRS x 25 hrs/form of TRS = 150 hrs
- One form of TRS: 4 respondents x 1 form of TRS x 25 hrs/form of TRS = 100 hrs

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to implement technology that supports automatic call data collection.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: $950 \text{ hrs} \times \$87.37/\text{hr} = \$83,001.50$

Annualized Burdens -- Though respondents will incur the burdens estimated in this section on a one-time basis, for purposes of cumulative burden estimates, these one-time estimates are annualized over the three-year period for which the Commission seeks approval for this collection. Therefore:

Total Annual Number of Responses: $14/3 = 4.67$ (5 responses/yr)

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Total Annual Number Burden Hours: $950 \text{ hrs}/3 = 316.67$ (317 hrs/yr)

Total Annual “In-House” Cost: $\$83,001.50/3 = \$27,667.17/\text{yr}$

E. Record Retention

Annual Number of Respondents: 11

There are 11 unique providers (respondents) that provide VRS, IP Relay, and/or IP CTS. 2 provide all three; 1 provides IP Relay and IP CTS; 4 provide IP Relay and VRS; and 4 provide VRS.

Annual Number of Responses: $(2 \text{ providers} \times 3 \text{ responses}) + (5 \text{ providers} \times 2 \text{ responses}) + (4 \text{ providers} \times 1 \text{ response}) = 20 \text{ responses/yr}$

Annual Number of Burden Hours: $30 \text{ hrs} + 50 \text{ hrs} + 20 \text{ hrs} = 100 \text{ hrs/yr}$

The Commission estimates that each respondent will require approximately 5 hours per form of Internet-based TRS to retain its call detail records, other records that support its claims for payment from the Fund, and those records used to substantiate the costs and expense data submitted in the annual relay service data request form, for five years. Though the record keeping requirement entails record retention for five years, the burden is incurred once per year as new records are added and those older than five years are purged.

$2 \text{ respondents} \times 3 \text{ forms of TRS} \times 5 \text{ hrs/form of TRS} = 30 \text{ hrs/yr}$

$5 \text{ respondents} \times 2 \text{ forms of TRS} \times 5 \text{ hrs/form of TRS} = 50 \text{ hrs/yr}$

$4 \text{ respondents} \times 1 \text{ form of TRS} \times 5 \text{ hrs/form of TRS} = 20 \text{ hrs/yr}$

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) for record keeping.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: $100 \text{ hrs/yr} \times \$87.37 = \$8,737.00$

F. Third-party Agreements (new)

Annual Number of Respondents: 10

(1) The Commission estimates that each respondent will require approximately 5 hours per year to maintain copies of all third-party contracts or agreements so that copies of these agreements containing detailed information will be available to the Commission and the TRS Fund administrator upon request.

Annual Number of Burden Hours: $10 \text{ respondents} \times 5 \text{ hrs} \times 1/\text{yr} = 50 \text{ hrs/yr}$

Annual Number of Responses: $10 \text{ respondents} \times 1 \text{ response} \times 1/\text{yr} = 10 \text{ responses/yr}$

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The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to maintain copies of all third-party contracts or agreements.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 50 hrs/yr x \$87.37 = \$4,368.50

(2) The Commission estimates that each respondent will require 8 hours to describe all agreements in connection with marketing and outreach activities, including those involving sponsorships, financial endorsements, awards, and gifts made by the provider to any individual or entity, in the providers’ annual submissions to the TRS Fund administrator.

Annual Number of Responses: 10 respondents x 1 response x 1/yr = 10 responses/yr

Annual Number of Burden Hours: 10 respondents x 8 hrs x 1/yr = 80 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to describe in details all agreements in the providers’ annual submissions to the TRS Fund administrator.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 80 hrs/yr x \$87.37 = \$6,989.60

G. Whistleblower Protection (new)

Annual Number of Respondents: 14

The Commission estimates that each respondent will require 3 hours to distribute information about whistleblower protections, including the right to notify the Commission’s Office of Inspector General or its Enforcement Bureau, to all TRS employees and contractors, in writing. Such notification can be distributed in employee handbooks, policies and procedures manuals, or bulletin board postings – either online or in hard copy.

Annual Number of Responses (1 response/form of TRS x one per year)

6 forms of TRS (1 provider) + 5 forms of TRS (1 provider) + 4 forms of TRS (2 providers) + 3 forms of TRS (3 providers) + 2 forms of TRS (3 providers) + 1 form of TRS (4 providers) = 6 + 5 + 8 + 9 + 6 + 4 = 38 x 1/year = 38 responses/yr

Annual Number of Burden Hours: 18 + 15 + 24 + 27 + 18 + 12 = 114 hrs/yr

The Commission estimates that each respondent will require approximately 3 hours to distribute information about whistleblower protections for each form of TRS on an annual basis:

- Six forms of TRS: 1 respondent x 6 forms of TRS x 3 hrs per distribution = 18 hrs/yr

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- Five forms of TRS: 1 respondent x 5 forms of TRS x 3 hrs per distribution = 15 hrs/yr
- Four forms of TRS: 2 respondents x 4 forms of TRS x 3 hrs per distribution = 24 hrs/yr
- Three forms of TRS: 3 respondents x 3 forms of TRS x 3 hrs per distribution = 27 hrs/yr
- Two forms of TRS: 3 respondents x 2 forms of TRS x 3 hrs per distribution = 18 hrs/yr
- One form of TRS: 4 respondents x 1 form of TRS x 3 hrs per distribution = 12 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to distribute information about whistleblower protections.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 114 hrs x \$87.37/hr = \$9,960.18

H. Required Submission for Waiver Request (new)

Annual Number of Respondents: 6

The Commission estimates that 6 companies that offer VRS as a subcontractor would apply for a temporary waiver regarding the new VRS provider eligibility rules

Annual Number of Responses: 6

Annual Burden Hours (one-time Burden): = 450 hrs

Annual “In-House” Cost: 450 hrs x \$87.37/hr = \$39,316.50

Annualized Burdens -- Though respondents will incur the burdens estimated in this section on a one-time basis, for purposes of cumulative burden estimates, these one-time estimates are annualized over the three-year period for which the Commission seeks approval for this collection. Therefore:

Total Annual Number of Responses: 6/3 = **2 responses/yr**

Total Annual Burden Hours: 450/3 = **(150 hrs/yr)**¹⁷

Total Annual “In-House” Costs: \$39,316.50/3 = **(\$13,105.50/yr)**

¹⁷ Total Annual Burden Hours as assessed: **6 respondents x 75 hour per respondents = 450 hours/3 years = 150 hours annualized.**

CUMULATIVE TOTAL FOR INFORMATION COLLECTION REQUIREMENTS:

Cumulative Total of Annual Number of Respondents: 20

Cumulative Total Annual Number of Responses: 1,423

Cumulative Total of Annual Burden Hours: 4,632

Cumulative Total of Annual “In-House” Costs: \$400,300.22

13. The Commission estimates that TRS providers will incur some cost for the following:

(1) Implementation of technological infrastructure – likely software -- to automatically capture of the session and the conversation times, to the nearest second, and all other data required for each TRS call, per 12(D); and

(a) The Commission estimates conservatively at this juncture that up to 14 respondents will purchase such software at up to \$5,000 per respondent. The Commission further estimates that such software would have a useful life of 10 years.

14 respondents x \$5,000/respondent / 10 yrs = \$7,000/yr

(2) record storage facilities for retaining records for five years, per 12(E) above.

(a) The Commission estimates that 11 respondents will each need to spend \$2,600 per year for additional server space, memory, communications, and backup/recovery service associated with a requirement to retain records for five years, per 12(E) above.

11 respondents x \$2,600/respondent/yr = \$28,600/yr

(a) Total annualized capital/start-up costs: \$7,000

(b) Total annual costs (operation and maintenance): \$28,600

(c) Total annualized costs requested: \$35,600

14. The Commission believes that the costs to the Federal government emanating from these final information collections will involve:¹⁸

¹⁸ The costs estimated here are in addition to the much-greater time and costs associated with the Fund administrator’s review of such data and information. While working under contract with the Federal government and at the direction of the Commission, the costs associated with the Fund administrator’s work related to the final information collections are not taken into account in the estimated costs to the

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(a) initial staff review of the call data information and speed of answer compliance data, and of existing and new call center information; and

(b) senior staff review of issues identified and escalated from the initial staff review of information and data.

(a) The Commission will use staff attorneys at the GS-14/5 level to review this information. The Commission estimates the time to review this information will be approximately 12 hours per month = 144 hours annually.

144 hrs x \$57.13/hr = \$8,226.72

(b) The Commission will use staff attorneys at the GS-15/5 level to review escalated issues and information. The Commission estimates the time to review this information will be approximately 25 hours per month = 300 hours annually.

300 hrs x \$67.21/hr = \$20,163

Total Cost to the Federal Government: \$8,226.72 + \$20,163 = **\$28,389.72**

15. On August 1, 2011, the Commission submitted this collection as a revised collection. The Commission had partially reduced the burdens associated with the emergency approval received for the *required submission for waiver request*; which modifies the existing information collection approved by OMB on May 9, 2011; and added new information collection requirements, all pursuant to the *2011 Structure and Practices of Video Relay Service Report and Order*. Therefore, the following program changes were reflected in OMB's inventory: **-8** number of respondent, from 28 to 20 respondents; **+1,249** annual number of responses, from 174 to 1,423 annual number of responses; **+4,254** annual burdens hours, from 378 to 4,632 annual burdens hours; and **+\$35,600** annual cost; from \$0 to \$35,600 annual cost.

In this submission, the Commission is making a non-substantial change to Question A.12.C., above, regarding *Data Filed with the Fund Administrator to Support Payment Claims*, and also correcting errors regarding the scope of these requirements, as summarized in Question A.1.C., above. Because the burden estimates in Question A.12., as submitted to OMB on August 1, 2011, reflect that the requirements apply to all TRS providers, changing the characterization of the scope of the requirements, as summarized in Question A.1.C., does not affect the burden estimates.

16. There are no plans to publish the results of the collection of information.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of this collection of information.
18. The Commission published a 60 day notice on May 2, 2011 (76 FR 24482). In the 60 day notice, the Commission stated the following estimates: 14 annual number of respondents; 1,421 annual number of responses; and 4,482 annual burden hours. Question 12, above,

Federal Government pursuant to Question 14 of the Supporting Statement.

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reports the correct burdens as follows: 20 annual number of respondents; 1,423 annual number of responses; and 4,632 annual burden hours.

NOTE: In its 30 day notice published at 76 FR 45796, August 1, 2011, the Commission inadvertently reported the estimated time per response to be .5 hours (30 minutes) to 50 hours. Question 12, above, reports the correct estimated time per response to be .017 hours (1 minute) to 25 hours, as previously stated in the Commission's 60 day notice. There are no other exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

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