



PUBLIC NOTICE

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON
INFORMATION COLLECTION AND RECOMMENDATIONS TO CONGRESS REGARDING
STATE 911/E911 FEES AND EXPENDITURES**

PS Docket No. 09-14

Comment Date: December 6, 2011

Reply Comment Date: January 5, 2012

By this Public Notice, the Public Safety and Homeland Security Bureau (Bureau) seeks comment on whether, pursuant to the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act),¹ the Federal Communications Commission (Commission) should collect more detailed or additional information regarding how states, territories, and other reporting jurisdictions collect and expend 911/E911 fees. The Bureau also seeks comment on recommendations for the Commission to submit to Congress regarding potential legislative changes that would provide greater accountability in the collection and expenditure of 911/E911 funds.

Background

Pursuant to Section 6(f)(2) of the NET 911 Act, the Commission annually collects information regarding fees collected by states and other jurisdictions to support 911/E911 services and the expenditure of such fees, including “the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified.”² Based on this information collection, the Commission prepares an annual report to Congress on 911/E911 fee collections and expenditures. The Commission has previously submitted reports for the

¹ New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (2008) (NET 911 Act).

² *Id.* at §6(f)(2). Section 6(f)(1) of the NET 911 Act affirms the ability of “[a] State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended” to collect fees or charges “[applicable] to commercial mobile services or IP-enabled voice services ... for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services.” NET 911 Act at §6(f)(1).

2008 and 2009 calendar years, and on November 1, 2011, the Commission submitted its third annual report to Congress for calendar year 2010 (Third Annual Report).³

The Third Annual Report found that in 2010, 22 jurisdictions collected 911/E911 fees at the state level, 8 collected fees at the local level, and 20 collected fees at both the state and local levels.⁴ The funds collected ranged from an estimated low of \$3,017,672 in Louisiana to an estimated high of \$199,025,787 in Texas.⁵ The Report also found that 39 states, Puerto Rico, the US Virgin Islands, and the District of Columbia reported using the funds exclusively for 911/E911 purposes, while seven states reported using some portion of their funds to support other programs.⁶ Compared to prior years, this represents a reduction in the number of states that have reported using funds for purposes other than 911/E911: in the 2010 Report, thirteen states reported using funds for non-911/E911 purposes,⁷ while in the 2009 Report, twelve states reported using funds for non-911/E911 purposes.⁸

Proposed Revisions to Annual Information Collection

The Bureau is seeking renewal from the Office of Management and Budget of its authority to collect the information regarding 911/E911 fees and expenditures.⁹ The current collection asks for the following information:

1. A statement as to whether or not your State, or any political subdivision, Indian tribe, village or regional corporation therein as defined by Section 6(f)(1) of the NET 911 Act, has established a funding mechanism designated for or imposed for the purposes of 911 or E911 support or implementation (including a citation to the legal authority for such mechanism).
2. The amount of the fees or charges imposed for the implementation and support of 911 and E911 services, and the total amount collected pursuant to the assessed fees or charges, for the annual period ending December 31, 2010.
3. A statement describing how the funds collected are made available to localities, and whether your state has established written criteria regarding the allowable uses of the collected funds, including the legal citation to such criteria.
4. A statement identifying any entity in your State that has the authority to approve the expenditure of funds collected for 911 or E911 purposes, and a description of any oversight procedures established to determine that collected funds have been made available or used for the purposes designated by the funding mechanism, or otherwise used to implement or support 911 or E911.

³ See “Report to Congress On State Collection and Distribution Of 911 And Enhanced 911 Fees and Charges,” rel. November 1, 2011 (Third Annual Report).

⁴ *Id.* at ¶¶ 10-12.

⁵ *Id.* at ¶ 14.

⁶ *Id.* at ¶ 15.

⁷ See “Report to Congress On State Collection and Distribution Of 911 And Enhanced 911 Fees and Charges,” rel. August 13, 2010, available at <http://transition.fcc.gov/pshs/services/911-services/statecollections.html> (last accessed on November 1, 2011) (Second Annual Report).

⁸ “Report to Congress On State Collection and Distribution Of 911 And Enhanced 911 Fees and Charges,” rel. July 22, 2009, available at <http://transition.fcc.gov/pshs/services/911-services/statecollections.html> (last accessed on November 1, 2011) (First Annual Report).

⁹ OMB Control Number 200812-3060-008 (Jan 26, 2009). The current information collection authorization expires on January 26, 2012.

5. A statement whether all the funds collected for 911 or E911 purposes have been made available or used for the purposes designated by the funding mechanism, or otherwise used for the implementation or support of 911 or E911.
6. A statement identifying what amount of funds collected for 911 or E911 purposes were made available or used for any purposes other than the ones designated by the funding mechanism or used for purposes otherwise unrelated to 911 or E911 implementation or support, including a statement identifying the unrelated purposes for which the funds collected for 911 or E911 purposes were made available or used.
7. Any other comments you may wish to provide regarding the applicable funding mechanism for 911 and E911.

In addition to renewing its authorization for the above questions, the Bureau proposes to obtain additional authority to collect more specific information to provide the Congress with a more detailed report of how states, territories, and other reporting jurisdictions use collected 911/E 911 funds. The NET 911 Act provides that:

“Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (85 Stat. 688) for the support or implementation of 9-1-1 or enhanced 9-1-1 services, ***provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge.***”¹⁰

Given this express Congressional concern with the appropriate use of collected fees, the Bureau believes that future reports to Congress should contain more detailed information about how states and other reporting jurisdictions determine what activities, programs, and organizations qualify as being “in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services,” for purposes of qualifying to receive collected 911/E911 funds.¹¹

Specifically, the Bureau proposes to modify item # 4 in the currently authorized information request as follows:

“A statement identifying any entity in your State that has the authority to approve the expenditure of funds collected for 911 or E911 purposes; a description of any oversight procedures established to determine that collected funds have been made available or used for the purposes designated by the funding mechanism or otherwise used to implement or support 911; and a statement describing enforcement or other corrective actions undertaken in connection with such oversight, for the annual period ending December 31, 20XX.”

The Bureau also proposes to add the following questions to its annual information request:¹²

“A statement identifying with specificity all activities, programs, and organizations for whose benefit your State, or political subdivision thereof, has obligated or expended funds collected for 911 or E911 purposes and how these activities, programs, and organizations support 911 and E911 services or enhancements of such services.”

¹⁰ NET 911 Act at §6(f)(1) *emphasis added*.

¹¹ *Id.*

¹² The Bureau proposes to add these questions as #7 and #8 and renumber the current Question #7 as #9.

“A statement regarding whether your State classifies expenditures on Next Generation 911 as within the scope of permissible expenditures of funds for 911 or E911 purposes, whether your State has expended such funds on Next Generation 911 programs, and if so, how much your state has expended in the annual period ending December 31, 20XX on Next Generation 911 programs.”

The Bureau seeks comment on these proposed modifications to its currently authorized information collection. The Bureau also seeks comment on any additional information that commenters recommend we collect for purposes of future annual reports to Congress on 911/E911 fees and expenditures.

Proposed Recommendations to Congress

The Bureau seeks comment on potential recommendations for it to submit to Congress regarding potential legislative changes that would provide greater accountability in the collection and expenditure of 911/E911 funds by states and other jurisdictions. Specifically, the Bureau seeks comment on the following:

- Should the Commission recommend that Congress enact additional disclosure or reporting requirements in connection with 911/E911 fees and expenditures and if so, what additional disclosure or reporting requirements?
- Should the Commission recommend that Congress enact specific federal enforcement mechanisms to ensure that 911/E911 fees are not used for non-911/E911 purposes, and if so, what specific enforcement mechanisms?
- Should the Commission recommend that Congress enact additional provisions to promote the transition to and funding of Next Generation 911 programs, and if so, what additional provisions?

The Bureau also seeks comment on any additional proposals that commenters recommend for consideration by Congress.

Comment Filing Procedures

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules. See 47 C.F.R. § 1.1200, 1.1206. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission’s rules applicable to non-restricted proceedings.¹³

Interested parties may file comments on or before **December 6, 2011** and reply comments on or before **January 5, 2012**. All filings must reference **PS Docket No. 09-14**. Comments sent via email to the Commission will be considered informal and will not be part of the official record. Comments may be filed: (1) using the Commission’s Electronic Comment Filing System (ECFS), (2) via the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.¹⁴

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

¹³ 47 C.F.R. § 1.1206.

¹⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, *Report and Order*, 13 FCC Red 11322, 11326, ¶ 8 (1998).

- For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: **PS Docket No. 09-14**. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message: “get form.” A sample form and instructions will be sent in response.
- Paper Filers: Parties that choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.
 - All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554.

All filings must be addressed to the Commission’s Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties should also send a copy of their filing to Brendan Murray, Media Bureau, Room 4-A737, 445 12th Street, SW, Washington, DC 20554 or brendan.murray@fcc.gov. Parties must also serve one copy with the Commission’s copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in **PS Docket No. 09-14** are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th St., SW, Room CYA257, Washington, DC 20554, telephone (202) 418-0270. They may also be purchased from the Commission’s copy contractor, Best Copy and Printing, Inc., telephone (202) 488-5300, facsimile (202) 488-5563, or via email at fcc@bcpiweb.com.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

For further information, contact Mr. Thomas J. Beers, Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-0952.

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