



PUBLIC NOTICE

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WIRELINE COMPETITION BUREAU REMINDS SECURE AND TRUSTED COMMUNICATIONS NETWORKS REIMBURSEMENT PROGRAM RECIPIENTS OF THEIR STATUS UPDATE FILING OBLIGATION

WC Docket No. 18-89

By this Public Notice, the Wireline Competition Bureau (Bureau) reminds Recipients¹ in the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) of their obligation to file status updates with the Federal Communications Commission (Commission) every 90 days, beginning on the date on which the Bureau approved Recipients' applications, until the obligation to file expires.² Because Recipients' applications were approved on July 15, 2022,³ all initial status updates are due on October 13, 2022. As required by the Secure and Trusted Communications Networks Act of 2019, as amended (Secure Networks Act),⁴ the status updates must inform the Commission about the work of the Recipient to permanently remove, replace, and dispose of the covered communications equipment or services, which for the purposes of the Reimbursement Program means all communications equipment or services produced or provided by Huawei Technologies Company or ZTE Corporation and obtained on or before June 30, 2020 (covered communications equipment or services).⁵

¹ The Secure and Trusted Communications Networks Act of 2019, as amended, defines "recipient" as "any provider of advanced communications service the application of which for a reimbursement under the [Reimbursement] Program has been approved by the Commission, regardless of whether the provider has received reimbursement funds." Secure and Trusted Communications Act of 2019, Pub. L. No. 116-124, 134 Stat. 158, § 9(11) (2019) (codified as amended at 47 U.S.C. §§ 1601-09) (Secure Networks Act), *as amended by* Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 901, 134 Stat. 1182 (2021); *see also* 47 CFR § 1.50001(h) ("The term 'Reimbursement Program recipient' or 'recipient' means any eligible advanced communications service provider that has requested via application and been approved for funding in the Reimbursement Program, regardless of whether the provider has received reimbursement funds.").

² 47 CFR § 1.50004(k) (requiring Reimbursement Program recipients to file a status update with the Commission once every 90 days beginning on the date on which the Wireline Competition Bureau approves the recipient's application for reimbursement and until the recipient has filed the final certification).

³ *Wireline Competition Bureau Announces the Grant of Applications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 22-774 (WCB July 18, 2022) (*SCRIP Granted Applications Public Notice*).

⁴ *See* 47 U.S.C. § 1603(d)(8)(A).

⁵ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Third Report and Order, 36 FCC Rcd 11958, 11965-78, paras. 18-45 (2021) (*2021 Supply Chain Order*); *see also* *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284, 14309-10, paras. 51-54 (2020) (*2020 Supply Chain Order*) (interpreting "communications equipment or service").

Background. As directed in the Secure Networks Act, the Commission established the Reimbursement Program to reimburse providers of advanced communications services with ten million or fewer customers for reasonable costs incurred in the removal, replacement, and disposal of covered communications equipment or services from their networks that pose a national security risk.⁶ In the *2020 Supply Chain Order*, the Commission established and adopted rules for the Reimbursement Program,⁷ revised these rules in the *2021 Supply Chain Order*, and subsequently provided additional guidance on the application, reimbursement, and disposal process.⁸ On July 15, 2022, the Bureau issued decisions approving and denying applications submitted for Reimbursement Program support. Recipients were announced in a Public Notice released by the Bureau on July 18, 2022.⁹

The Secure Networks Act requires that “[n]ot less frequently than once every 90 days beginning on the date on which the Commission approves an application for a reimbursement under the [Reimbursement] Program, the recipient of the reimbursement shall submit to the Commission a status update on the work of the recipient to permanently remove, replace, and dispose of the covered communications equipment or services.”¹⁰ The Secure Networks Act also provides that “[n]ot earlier than 30 days after the date on which the Commission receives a status update,” the Commission “shall make such status update public on the website of the Commission.”¹¹ In the *2020 Supply Chain Order*, the Commission required Recipients to file the first status updates within 90 days of receiving their funding allocations.¹²

Status Updates Obligation. In accordance with the Secure Networks Act and Commission rules, each Recipient must regularly submit status updates beginning on October 13, 2022, and then every 90 days thereafter until the Recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the covered communications equipment or service pursuant to a final certification.¹³ The Commission has interpreted the Secure Networks Act as permitting the Commission to require the first status update filing 90 days after the approval of applications for reimbursement, and also that the updates be filed at least every 90 days.¹⁴ In the *2020 Supply Chain*

⁶ 47 U.S.C. §§ 1601–1609. The Commission implemented the Secure Networks Act on December 10, 2020. *2020 Supply Chain Order*, 35 FCC Rcd 14284. On July 13, 2021, the Commission amended its rules, consistent with amendments to the Secure Networks Act included in the Consolidated Appropriations Act, 2021. *2021 Supply Chain Order*, 36 FCC Rcd 11958.

⁷ 47 CFR § 1.50004; *2020 Supply Chain Order*, 35 FCC Rcd at 14374-83, Appx. A.

⁸ *2021 Supply Chain Order*, 36 FCC Rcd at 12006-12008, Appx. A; *Wireline Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 12190 (WCB 2021) (*Finalized Reimbursement Process Public Notice*); *Wireline Competition Bureau Announces Best Practices for Equipment Disposal and Revises FCC Form 5640 Certifications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 14061 (WCB 2021).

⁹ *SCRIP Granted Applications Public Notice*.

¹⁰ 47 U.S.C. § 1603(d)(8)(A).

¹¹ 47 U.S.C. § 1603(d)(8)(B).

¹² *2020 Supply Chain Order*, 35 FCC Rcd at 14359, para. 183; *see also Finalized Reimbursement Process Public Notice*, 36 FCC Rcd at 12211, paras. 62-63.

¹³ 47 U.S.C. § 1603(d)(8)(A); 47 CFR § 1.50004(k)(1); *2020 Supply Chain Order*, 35 FCC Rcd at 14359, paras. 183-84; *see also Finalized Reimbursement Process Public Notice*, 36 FCC Rcd at 12211, paras. 62-63.

¹⁴ *See 2020 Supply Chain Order*, 35 FCC Rcd at 14359, para. 183 (“Although the statute allows us to require more frequently filed updates, we find an update every 90 days sufficient to keep the Commission informed of ongoing developments while not unduly burdening program recipients and diverting limited administrative resources away from the network transition process.”).

Order, the Commission noted that status updates “will help the Commission monitor the overall pace of the removal, replacement, and disposal [(RRD)] process and whether recipients are acting consistently with the timelines provided to the Commission or whether unexpected challenges are causing delay.”¹⁵ Furthermore, due to the importance of status updates in the Commission’s role to monitor Recipients’ implementation of their RRD timelines, we clarify that while Recipients may submit status updates more frequently than every 90 days, they *must* file status updates every 90 days to satisfy their obligation.¹⁶ As such, we make a procedural revision to section 1.50004(k)¹⁷ to clarify that Recipients must file a status update with the Commission 90 days after the date on which the Bureau approves the Recipient’s application, and every 90 days thereafter until the expiration of the obligation to file.¹⁸

Recipients are required to report on their “work to permanently remove, replace, and dispose of the covered communications equipment or services” in their communications networks,¹⁹ including the efforts undertaken and challenges encountered in performing that work.²⁰ The status updates must also include whether the Recipient has: (1) fully complied with, or is in the process of complying with, all requirements of the Reimbursement Program; (2) fully complied with, or is in the process of complying with, the commitments made in the Recipient’s application; (3) permanently removed from its communications network, replaced, and disposed of, or is in the process of permanently removing, replacing, and disposing of, all covered communications equipment or services that were in the Recipient’s network as of the date of the submission of the Recipient’s application; and (4) fully complied with, or is in the process of complying with, the timeline submitted by the Recipient in their application.²¹ Recipients shall also report in detail on the availability of replacement equipment in the marketplace so the Commission can assess whether a general, six-month extension permitted by the statute is

¹⁵ *2020 Supply Chain Order*, 35 FCC Rcd at 14359, para. 183; *see also* 47 U.S.C. § 1603(d)(4)(A)(ii). Applicants were required to submit specific timelines for the permanent removal, replacement, and disposal of the Covered Communications Equipment or Services in their networks with their applications (RRD Timeline), and will be required to certify that they complied with those timelines in their Final Certifications. 47 U.S.C. § 1603(d)(4)(A)(ii) & (e)(4)(A)(iv); 47 CFR § 1.50004(c)(1)(iv) & (m)(1).

¹⁶ *See* 47 U.S.C. § 1603(d)(8)(A) (requiring Recipients to file a status update with the Commission “[n]ot less frequently than once every 90 days beginning on the date on which the Commission approves an application for a reimbursement under the Program”); *2020 Supply Chain Order*, 35 FCC Rcd at 14359, para. 183 (finding “an update every 90 days sufficient to keep the Commission informed of ongoing developments while not unduly burdening program recipients and diverting limited administrative resources away from the network transition process”).

¹⁷ The Commission delegated authority to the Bureau to establish the form in which status updates are submitted to the Bureau, *2020 Supply Chain Order*, 35 FCC Rcd at 14358, para. 180, and directed the Bureau “to provide additional details on the filing requirements and contents for such status updates.” *Id.* at 14359, para. 185.

¹⁸ *See* Appx. A. This revision is permissible without notice and comment because the timeframe in which a Recipient must file its periodic reports under section 1.50004(k) of the Commission’s rules is a procedural rule. 5 U.S.C. § 553(b)(A). This rule modification will ensure that the status updates provide the Bureau with the information it needs to perform the assessments contemplated by the Secure Networks Act and the Commission’s orders and rules. For instance, if a Recipient filed its first status update on October 13, 2022, and filed its second on October 27, 2022, the second report would provide little insight into how much progress the Recipient has made on the permanent removal, replacement, and disposal of the covered communications equipment and services in its network since the first 90-day reporting period.

¹⁹ 47 U.S.C. § 1603(d)(8)(A).

²⁰ 47 CFR § 1.50004(k)(1)(i).

²¹ 47 CFR § 1.50004(k)(1)(iii)-(vi). We remind Recipients that timelines submitted to the Commission outlining the Recipient’s RRD process must comport with the Recipient’s deadline to complete the permanent removal, replacement, and disposal of covered communications equipment and services, which is one year from its initial distribution of a reimbursement. 47 U.S.C. § 1603(d)(6)(A); 47 CFR § 1.50004(h).

appropriate.²² Lastly, each status update must include a certification that affirms the information in the update is accurate.²³

The Bureau issued decisions approving and denying applications submitted for Reimbursement Program support on July 15, 2022.²⁴ As such, Recipients must submit their first status updates on October 13, 2022, and thereafter every 90 days until the expiration of the obligation to file. The obligation to file status updates expires after the Recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the covered communications equipment or service pursuant to a final certification.²⁵ Recipients will submit status updates through the online portal, <https://fccprod.servicenowservices.com/scrp> (SCRP Online Portal) by completing FCC Form 5640 Part K: Status Updates.

Public Posting and Requests for Confidentiality. Consistent with the Secure Networks Act, the Bureau will make the Recipients' status updates public by publishing them on the Commission's website no earlier than 30 days after the 90-day filing deadline.²⁶ We also correct a discrepancy between section 1.50004(k)(2) of the Commission's rules and section 4(d)(8)(B) of the Secure Networks Act regarding the timing by which the Commission must post the status updates to its website.²⁷ To comply with the Secure Networks Act, we clarify that the Bureau will publicly post the status update filings on the Commission's website no earlier than 30 days after the close of the 90-day period covered by the status update.²⁸

Consistent with this requirement, we remind Recipients that status updates submitted to the Commission are **public**.²⁹ We believe that most Recipients will be able to comply with the content requirements for status updates without including details that the Commission has determined are presumptively confidential.³⁰ Recipients that need to include confidential information to accurately and

²² 47 CFR § 1.50004(k)(1)(ii); *see* 2020 Supply Chain Order, 35 FCC Rcd at 14359, para. 183.

²³ 47 U.S.C. § 1603(d)(8)(A); 2020 Supply Chain Order, 35 FCC Rcd at 14359, para. 184.

²⁴ *See* SCRPA Granted Applications Public Notice (announcing the grant of applications for the Reimbursement Program, as released on July 18, 2022).

²⁵ 2020 Supply Chain Order, 35 FCC Rcd at 14359, para. 184; *Finalized Reimbursement Process Public Notice*, 36 FCC Rcd at 12211, para. 63.

²⁶ 47 U.S.C. § 1603(d)(8)(B). A link to the public status updates will be provided on the Commission's Reimbursement Program webpage, <https://www.fcc.gov/supplychain>. For administrative ease, we clarify that if a Recipient opts to file multiple status updates within a particular 90-day period (e.g., a status update filed at the 30-day mark prior to filing the mandatory status update at the 90-day mark), we will post all status updates filed for a given 90-day period to the Commission's website no earlier than 30 days after the close of that period.

²⁷ *Compare* 47 U.S.C. § 1603(d)(8)(B) (directing the Commission to make each status update public on its website "[n]ot earlier than 30 days after the date on which the Commission receives a status update") with 47 CFR § 1.50004(k)(2) (directing the Bureau to "publicly post on the Commission's website the status update filings within 30 days of submission").

²⁸ *See* Appx. A. This revision is permissible without notice and comment because section 1.50004(k)(b)(2) is a procedural rule. 5 U.S.C. § 553(b)(A). Further, we find that notice and comment is not necessary under the "good cause" exception of the Administrative Procedure Act because the revision modifies the rule to be consistent with the statutory requirement. *See* 5 U.S.C. § 553(b)(B).

²⁹ *Finalized Reimbursement Process Public Notice*, 36 FCC Rcd at 12214, para. 63 ("Status updates will be public, consistent with the Commission's rules . . ."); 47 U.S.C. § 1603(d)(8)(B) (directing the Commission to make status updates public on the Commission's website).

³⁰ *See, e.g.,* 2020 Supply Chain Order, 35 FCC Rcd at 14360, para. 189, 14369-70, para. 214 & n.610 (discussing the types of information the Commission would treat as presumptively confidential); *see also* *Finalized Reimbursement Process Public Notice*, 36 FCC Rcd at 12212-14, paras. 66-69 (same). For instance, we believe that Recipients may comply with the content requirements of status updates without disclosing vendor price quotes;

(continued....)

fully report on the status of their removal, replacement, and disposal work, any challenges encountered in performing that work, or other status report content requirements must request confidential treatment of those details pursuant to section 0.459 of the Commission's rules.³¹ Requests for confidential treatment must be submitted by filing a written request electronically in WC Docket No. 18-89 in the Commission's Electronic Comments Filing System (ECFS), <https://www.fcc.gov/ecfs>. Recipients should file any such requests for confidential treatment concurrently with submission of the corresponding status update on the SCRP Online Portal. Recipients must attach to their filings a version of their status updates that redacts the specific information for which they are seeking confidential treatment.³² The Bureau will post the redacted version of a status update for which confidential treatment has been sought on the Commission's website.

Appendix A attached to this Public Notice reflects the two procedural rule changes for the Reimbursement Program adopted herein. The updated rules will become effective upon publication in the Federal Register.

Additional Information and Resources. Recipients with questions may contact the Fund Administrator Help Desk by email at SCRPFundAdmin@fcc.gov or by calling (202) 418-7540 from 9:00 AM ET to 5:00 PM ET, Monday through Friday, except for Federal holidays. General information and Commission documents regarding the Reimbursement Program are available on the Reimbursement Program webpage, <https://www.fcc.gov/supplychain>.

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invoices; detailed accounting information on the covered communications equipment and services removed, replaced, and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds; the address, latitude/longitude of equipment or service locations; sensitive information in removal or replacement plans; specific equipment or service types; or the specific details of removal, replacement, and disposal timelines. *Finalized Reimbursement Process Public Notice*, 36 FCC Rcd at 12214, para. 69; *see also 2020 Supply Chain Order*, 35 FCC Rcd at 14360, para. 189.

³¹ 47 CFR § 0.459. In addition to the content requirements of section 0.459 of the Commission's rules, Recipients should include the SCRP application numbers applicable to the status update and the Recipient's FCC Registration number in their requests for confidential treatment.

³² Recipients may download a PDF copy of their completed status updates from the SCRP Online Portal to redact and submit with requests for confidential treatment. We remind Recipients that requests for confidential treatment and associated redactions that are overbroad or otherwise inconsistent with the Commission's rules will be rejected.

APPENDIX A

Final Rules

Part 1 – Practice and Procedure

The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

1. Amend § 1.50004 by revising paragraphs (k) introductory text and (k)(2) to read as follows:

§ 1.50004 Secure and Trusted Communications Networks Reimbursement Program

(k) *Status Updates*. Reimbursement Program recipients must file a status update with the Commission ~~once every 90 days beginning on~~ **after** the date on which the Wireline Competition Bureau approves the recipient's application for reimbursement and **every 90 days thereafter**, until the recipient has filed the final certification.

(2) The Wireline Competition Bureau will publicly post on the Commission's website the status update filings ~~within~~ **no earlier than** 30 days after submission.
