

~~The Commission seeks emergency clearance to ensure that recent modifications to its auction rules can be implemented prior to the final determination of which applicants qualify as bidders for the upcoming first auction of licenses for Advanced Wireless Services (“AWS 1”), which is scheduled to begin on June 29, 2006. The Commission needs OMB approval as quickly as possible so that the proposed modification can be used for the upcoming auction of licenses for Advanced Wireless Services, which is scheduled to begin June 29, 2006. The Commission has publicly announced the start date of this auction, based on the notice provisions of the Commercial Spectrum Enhancement Act (CSEA).~~

SUPPORTING STATEMENT

A. **Justification:**

1. With this submission, the Commission requests ~~an extension emergency OMB approval to modify~~ ~~ly~~ (no change in reporting requirements) ~~approved information collect~~ for FCC Form 175 under OMB Control Number 3060-0600. ~~in order to require affected respondents to update FCC Form 175 pursuant to~~ in the event that subsequent ~~recently adopted~~ Commission rule changes ~~which will become effective while a respondent’s FCC Form 175 is pending.~~

~~On April 25, 2006, the Commission adopted and released a *Second Report and Order and Second Further Notice of Proposed Rule Making* (“*Second Report and Order*”), governing whether applicants to participate in Commission auctions are eligible to receive designated entity benefits. The rules adopted pursuant to the *Second Report and Order* ~~will become effective thirty days after publication in the Federal Register, or thirty days after publication in the Federal Register~~ June 5, 2006, ~~or roughly by the end of May.~~ The Commission has proposed rule changes governing whether applicants to participate in Commission auctions are eligible to receive designated entity benefits in a *Further Notice of Proposed Rulemaking* which accompanies this submission. See *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, Second Report and Order and Second Further Notice of Proposed Rulemaking*, FCC 06-528 (rel. ~~April 25~~ Feb. 3, 2006). (*Second Report and Order*).~~

~~Applicants to participate in the auction that claim to qualify as designated entities must so certify on FCC Form 175, the short-form application to participate in the auction. In order to allow time for the Commission to review and process FCC Form 175, as well as to allow applicants time to correct and supplement FCC Form 175 as necessary, parties seeking to participate in the AWS 1 auction must file had to file the FCC Form 175 by May 10~~ June 19, 2006. ~~Given that designated entity applicants will have filed FCC Form 175 prior to the effective date of any designated entity rule changes adopted pursuant to~~

~~the *Second Report and Order*, the Commission will require each such applicant to amend its FCC Form 175 on or after the effective date of the rule changes with a statement declaring, under penalty of perjury, that the applicant is qualified as a designated entity pursuant to Section 1.2110 of the Commission's rules effective as of the date of the statement. The proposal would modify the information collection requirement in 3060-0600 by requiring a one-time additional declaration from a limited number of respondents. In addition, dDepending on each applicant's circumstances, applicants may need to submit additionalcertain information demonstrating their qualifications pursuant to the modified designated entity rules. The Commission previously sought and received emergency approval to collect information required pursuant to the *Second Report and Order*. The information collection requirements in FCC Form 175 otherwise willwere not be changed by the *Second Report and Order*. The Commission also must allow sufficient time after the collection of any additional information to review and process those additional submissions before the beginning of the auction.~~

~~The Commission intends any rule changes adopted in that proceeding to apply to an upcoming auction of licenses for Advanced Wireless Services. Consistent with statutory notice requirements, that auction currently is scheduled to begin **June 29, 2006**. Applicants to participate in that auction may have FCC Form 175 applications to participate in the auction pending when any designated entity rule changes adopted pursuant to the Further Notice of Proposed Rulemaking become effective. FCC Form 175 currently requires applicants to certify compliance with Commission rules, including designated entity rules, as of the date of filing. Consequently, **the Commission proposes modifying this currently approved information collections in FCC Form 175 to require any applicant claiming designated entity eligibility in an FCC Form 175, to attach a separate declaration certifying compliance with our proposed rules pending on the effective date of any designated entity rule changes to submit an additional declaration certifying compliance with the newly effective rules.** The proposal would modify the information collections requirement in 3060-0600FCC Form 175 by requiring a one-time additional declaration from a limited number of respondents. The information collection requirements in FCC Form 175 otherwise will not be changed.~~

~~Finally, the Commission is requesting continued OMB approval for the reporting requirements approved in the previous emergency submission (May 2005).~~

Collection of the additional information declaration is authorized by: Sections 154(i) and 309(j)(5) of the Communications Act, as amended, and sections 1.2105, 1.2110, 1.2112 of the Commission's rules, as amended. See 47 U.S.C. §§ 4(i), 309(j)(5), 47 C.F.R. §§ 1.2105, 1.2110, 1.2112.

As noted on the Form OMB 83-I, the proposed modification does not affect individuals or households; there are no impacts under the Privacy Act.

2. The Commission needs to use the additional information declaration in the proposed modification to ensure that only legitimate small businesses reap the benefits of

the Commission's designated entity program. Over the last decade, the Commission has engaged in numerous rulemakings and adjudicatory investigations to prevent companies from circumventing the objectives of the designated entity eligibility rules. ~~In addition,~~ ~~If~~ an applicant applies for status as a particular type of auction participant pursuant to Commission rules, the Commission uses the information in [FCC Form 175 to](#) ~~determining~~ whether the applicant is eligible for the status requested. The Commission's auctions, including the collection of information to determine applicants' qualifications to participate pursuant to Commission rules and requirements, are designed to limit the competitive bidding to qualified applicants; to deter possible abuse of the bidding and licensing process; and to enhance the use of competitive bidding to assign Commission licenses and permits in furtherance of the public interest.

Commission staff reviews information collected in FCC Form 175 for a particular auction prior to the auction being held. Staff determines whether each applicant satisfies Commission requirements to participate in the auction and whether applicants claiming status as a particular type of auction participant are eligible for the status claimed.

3. Pursuant to Commission rules, auction participants are required to submit the completed FCC Form 175 electronically. Applicants asserting qualification as a designated entity in a Commission auction certify [their status](#) on the FCC Form 175 prior to the beginning of the auction. ~~Given that designated entity applicants will have filed FCC Form 175 prior to the effective date of any designated entity rule changes adopted pursuant to the *Second Report and Order*, the Commission will require each such applicant to amend its FCC Form 175 on or after the effective date of the rule changes with a statement declaring, under penalty of perjury, that the applicant is qualified as a designated entity pursuant to Section 1.2110 of the Commission's rules effective as of the date of the statement. In the event that any designated entity applicants have filed an FCC Form 175 prior to the effective date of any designated entity rule changes adopted in this proceeding, the Commission would require each such applicant to amend its FCC Form 175 on or after the effective date of the rule changes with a statement declaring, under penalty of perjury, that the applicant is qualified as a designated entity pursuant to Section 1.2110 of the Commission's rules effective as of the date of the statement. In addition,~~ ~~d~~Depending on each applicant's circumstances, applicants may need to submit [additional](#) certain information demonstrating their qualifications pursuant to the modified designated entity rules.

4. This ~~a~~Agency does not impose a similar information collection on the respondents. There is no similar data available.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents regardless of size. The Commission has limited the information requirement to that which is absolutely necessary for evaluating and processing the application and to deter possible abuses of the processes.

6. The respondents will determine whether to participate in competitive bidding. Thus, the frequency of filing is generally determined by the applicant. Small business ownership and gross revenues information/calculations must be updated when its status changes, so it is generally determined by the applicant. Designated entity qualification is required when seeking small business bidding credits, either generally or with respect to specific licenses.

The —Commission’s auction program could not function in its current form without the collection of information in FCC Form 175. Licensing access to the public spectrum resource and recovery for the public of a portion of the value of the public spectrum resource depend in part on the collection of information in FCC Form 175.

7. FCC Form 175 ~~currently does not have~~previously did not and with the rule proposed modifications ~~would~~does not have any of the characteristics requiring separate justification by 5 C.F.R. § 1320.5(d)(2).

8. Pursuant to 5 C.F.R. § 1320.8, a 60 day ~~Due to the urgency of this request, t~~The Commission is requesting a waiver of the 60-day notice requirement was published in the Federal Register on August 2, 2006 at 71 FR 43765 pursuant to 5 C.F.R. § 1320.8. The Commission is i ~~plans to publish~~a request for a a proposed modification of this ~~a currently approved collection. The Commission will initiated a 60-day comment period in a Further Notice of Proposed Rule Making (NPRM attached), Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, Further Notice of Proposed Rulemaking, FCC 06-8 (rel. Feb. 3, 2006), to be published in the Federal Register around the same time that we are seeking OMB approval for this collection. No c-omments were received. A copy of the notice is attached to this submission. The Commission will publish a 30 day notice in the Federal Register (see attached).— Finally, when the Commission seeks the full three-year clearance from OMB, we will solicit public comment by publishing a 60 day notice in the Federal Register before submitting the collection for approval.~~

9. Respondents will not receive any payments or gifts.

10. Information collected in FCC Form 175 is made available for public inspection. Applicants may seek confidential treatment pursuant to 47 C.F.R. § 0.459, the Commission’s general rule governing requests to withhold from public inspection information submitted to the Commission.

11. This information collection does not address any private matters of a sensitive nature.

12. The rule proposed modifications to the information collection ~~only would~~ apply only to respondents that must supply make an additional certain information indicating declaration certification that they qualify as a designated entity pursuant to any additional the modified rules requirements for designated entities, ~~that (i) were may be adopted in~~

~~WT docket No. 05-211; and (ii) become effective after the date the respondents initially file Form 175. We expect-estimated~~ that no more than 60 applicants will be required to submit ~~this additional certification/declarationsuch information annually.~~

With regard to the time burden, the Commission estimates that it will take each applicant on average up to 150 minutes, entirely by in-house staff, to submit ~~the additional certification/declarationinformation required by the Second Report and Order.~~

Total estimated annual hour burden for this requirement: 60 one time responses x 150 minutes per response = **150 total annual burden hours.**

Total estimated annual hour burden in previous submission to OMB in which the Commission requests continued OMB approval: 500 responses x 1.5 hours per response = 750 hours.

150 burden hours (this submission) + 750 burden hours (previous submission) = 7650 TOTAL ANNUAL BURDEN HOURS.

13. There is no cost burden to the respondents. The Commission ~~estimatesis of the opinion~~ that the respondents will prepare the ~~submission-proposed additional information required by the modified rules/declaration~~ with in-house staff, such as in-house counsel or the equivalent, in lieu of outside contractors. Therefore, the ~~cost~~ to respondents is zero.

14. The Commission estimates that on average staff review of the information ~~collected in additional information certifications/declaration that would be~~ required by the ~~proposed~~ modification, including time spent by staff attorneys, will take 15 minutes per application.

Accordingly, for the estimated 60 applications at 15 minutes per application and an average cost of \$40/hour, including attorney time, the total estimated annual cost to the Federal Government equals \$~~6200~~.

15. There is no change in burden.

16. The collection will not be published for statistical use.

17. The Commission seeks continued approval to not display the OMB expiration date on FCC Form 175. Approval will prevent the Commission from having to change the expiration date whenever a revision or three-year extension is requested. The Commission will publish the OMB control number and OMB expiration date in the Code of Federal Regulations. See 47 C.F.R. § 0.408.

~~18.~~ ~~18.~~ There are ~~no no~~ exceptions to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I. ~~__~~

~~19. Pursuant to 5 CFR § 1320.13(a)(2)(iii), the Commission is requesting emergency OMB approval for these reporting requirements collections to ensure that recent modifications to its auction rules can be implemented prior to the final determination of which applicants qualify as bidders for the upcoming first auction of licenses for Advanced Wireless Services (“AWS 1”), which is scheduled to begin on June 29, 2006. The Commission already has begun the pre-auction process for this auction, which was scheduled in compliance with the notice provisions of the Commercial Spectrum Enhancement Act. Because of the emergency nature of this request, the Commission, under separate cover, requested a waiver of the notice and comment requirements of 5 CFR 1320.8(d) and 1320.5(a)(iv).~~

B. Collections of Information Employing Statistical Methods:

The information collection in FCC Form 175 does not employ statistical methods.