

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

August 26, 2013

Alex Hunt
Chief, Information Policy Branch
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Hunt:

The Federal Communications Commission (Commission) requests OMB approval to submit the information collection described herein under the “emergency processing” provisions of the Paperwork Reduction Act (PRA) of 1995 (5 CFR 1320.13). The Commission is requesting clearance for a revision to a currently approved information collection to add an additional certification to the FCC Form 175, which is the form used to apply to participate in competitive bidding (auctions) for Commission licenses and permits. We respectfully request OMB approval for this collection by September 25, 2013.

On February 22, 2012, the President signed the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156 (2012) (2012 Spectrum Act), which, among other things, requires the Commission to license certain specified frequency bands using a system of competitive bidding not later than three years after enactment.¹ Section 6004 of the 2012 Spectrum Act, 47 U.S.C § 1404, prohibits a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant from participating in any auction that is required or authorized to be conducted pursuant to the 2012 Spectrum Act.

On June 27, 2013, the Commission released a Report and Order (R&O), FCC 13-88, WT Docket No. 12-357, in which it established service rules and competitive bidding procedures for the 1915-1920 MHz and 1995-2000 MHz bands. The R&O also implemented Section 6004 by requiring that a party seeking to participate in any auction conducted pursuant to the 2012 Spectrum Act certify in its application, under penalty of perjury, the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant and thus statutorily prohibited from participating in such a Commission auction. The Commission therefore seeks approval for a revision to its previously approved collection of information on FCC Form 175 to include this certification. The revised collection will enable the Commission to determine whether an applicant’s participation in an auction conducted pursuant to the 2012 Spectrum Act is consistent with Section 6004.

The Commission’s auction rules and requirements are designed to ensure that the competitive bidding process is limited to serious qualified applicants, deter possible abuse of the bidding and licensing process, and enhance the use of competitive bidding to assign Commission licenses in furtherance of the public interest. The information collected on Form 175 is used by the Commission to determine if an

¹ The specified frequency bands are as follows: 1915-1920 MHz, 1995-2000 MHz, 2155-2180 MHz, the 15 megahertz of spectrum identified by NTIA pursuant to 47 U.S.C. § 1451(a)(3), and 15 megahertz of contiguous spectrum to be identified by the Commission. *See* 47 U.S.C. § 1451(b)(2).

applicant is legally, technically, and financially qualified to participate in a Commission auction. Additionally, if an applicant applies for status as a particular type of auction participant pursuant to Commission rules, the Commission uses information collected on Form 175 to determine whether the applicant is eligible for the status requested. The revised information collection will enable the Commission to confirm that a potential auction participant meets the criteria set forth in Section 6004 by requiring that applicant to certify on FCC Form 175, under penalty of perjury, that neither the applicant nor any of the related individuals and entities required to be disclosed on FCC Form 175 are person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction or receiving a grant. The Commission plans to continue to use the Form 175 for all upcoming spectrum auctions, collecting only the information necessary for each particular auction. Thus, the national security certification that is the subject of this revised collection will not be required for all auctions.

As noted above, the Commission is under a statutory obligation pursuant to the 2012 Spectrum Act to license the spectrum described in the R&O by auction not later than February 2015. To comply with this statutory obligation, the Commission recently announced that it will be prepared to hold an auction to assign licenses for this spectrum by or as early as January 14, 2014. The Commission's established pre-auction process for evaluating applications and identifying qualified bidders requires a substantial amount of review by Commission staff. To conduct the auction according to the announced schedule, the Commission will need to receive applications to participate in the auction at least three months prior to the start of the auction. Given the timing for the auction, the Commission expects to begin accepting FCC Form 175 applications to participate in the auction in early October 2013. Auction applicants are required to complete and electronically file the FCC Form 175 using the Commission's Integrated Spectrum Auctions System. Thus, the necessary revisions to the automated filing system to add the new certification to FCC Form 175 must be completed sufficiently in advance of the date on which the Commission begins accepting applications for this auction. Because the expected date on which applicants may begin submitting their FCC Form 175 applications to participate in an auction for this spectrum is fewer than three months away, emergency approval is required to allow sufficient time for the new certification to be added to FCC Form 175. Accordingly, the Commission is requesting emergency processing and approval.

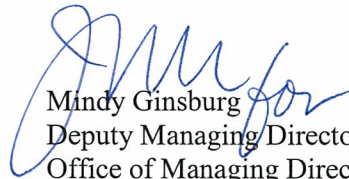
The information requested as part of this revised collection will be used by the Commission in its review of an applicant's legal qualifications to participate in a Commission auction.

If the Commission were to wait 120 days to formally notify the public and potential interested parties of its intent to collect this additional information on FCC Form 175, the Commission's ability to begin accepting applications to participate in the auction of these spectrum licenses would be substantially delayed, and would in turn substantially delay the start of the auction. We note that the Commission's need to revise the information collection to add this national security certification is based on a statutory requirement. We further note that the Commission previously provided public notice and solicited comment on this revised information collection in a Notice of Proposed Rulemaking (NPRM) released in December 2012 (*see* FCC 12-152, paragraph 104 and Appendix B, paragraphs 7-8). A summary of the NPRM was published in the Federal Register in January 2013. *See* 78 Fed. Reg. 1166 (Jan. 8, 2013). No PRA or other comments were received regarding the proposed revised collection in response to the NPRM or the Federal Register notice. Moreover, pursuant to 5 CFR § 1320.11, the Commission invited comment on the revised information collection in the recently released R&O (*see* FCC 13-88, paragraphs 264-265), and in a summary of the R&O that was recently published in the Federal Register (*see* 78 Fed. Reg. 50214 (Aug. 16, 2013)). As of the date of submission of this emergency request to the OMB, no PRA comments concerning the revised collection have been received by the Commission in response to the R&O. Further, due to the emergency nature of this request, the Commission is seeking a waiver of the requirement to publish a 60-day notice in the Federal Register. The Commission will conduct all the

necessary regular submission requirements under the PRA after approval of this emergency request.

The Commission's staff is ready to work with your PRA Desk Officer to immediately provide any additional information needed to assure OMB's approval of this emergency request by September 25, 2013.

Sincerely,



Mindy Ginsburg
Deputy Managing Director
Office of Managing Director
Federal Communications Commission