

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 608 is a multi purpose form. It is used to provide notification or request approval for any spectrum leasing arrangement ('Lease') entered into between an existing licensee ('Licensee') in certain Wireless and/or Public Safety Radio Services and a spectrum lessee ('Lessee'). This form also is required to notify or request approval for any spectrum subleasing arrangement ('Sublease'). The data collected on the form is used by the FCC to determine whether the public interest would be served by the Lease or Sublease. The form is also used to provide notification for any Private Commons Arrangement entered into between a Licensee, Lessee, or Sublessee and a class of third-party users (as defined in Section 1.9080 of the Commission's Rules).

The Commission is now seeking Office of Management and Budget (OMB) approval for a revision of the collection to add a National Security Certification that is applicable to applicants for licenses issued as a result of the Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act). 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. See Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands, *Report and Order*, FCC 13-88, 28 FCC Rcd 9483 (2013). 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 or being issued a license. In addition, the R&O determined that the National Security Certification required by Section 6004 extends to transfers, assignments, and other secondary market mechanisms involving licenses granted pursuant to the 2012 Spectrum Act. See H Block R&O, 28 FCC Rcd at 9555 ¶ 187. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 608 to include this additional certification. The revised collection will enable the Commission to determine whether an applicant's request for a license pursuant to the 2012 Spectrum Act is consistent with Section 6004.

Additionally, the form 608 is being revised to update the Alien Ownership certifications pursuant to the Second Report and Order, FCC 13-50, IB Docket 11-133, Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended.

The addition of the National Security Certification and the revision to the Alien Ownership certification result in no change in burden for the revised collection. The Commission estimates that the additional certification will not measurably increase the estimated average amount of time for respondents to complete FCC Form 608 across the range of applicants or for Commission staff to review the applications.

Statutory authority for this collection of information is contained in 47 U.S.C. sections 151, 154(i), 154(j), 155, 158, 161, 301, 303(r), 308, 309, 310, 332 and 503.

This collection of information does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The required notifications and applications will provide the Commission with useful information about spectrum usage and help to ensure that licensees and lessees are complying with Commission interference and non-interference related policies and rules. Similar information and verification requirements have been used in the past for licensees operating under authorizations, and such requirements will serve to minimize interference, verify that lessees are legally and technically qualified to hold licenses, and ensure compliance with Commission rules.
3. The Commission encourages the use of electronic filing and estimates that currently. With the advent of ULS, 98% of all applications and notifications submitted to the FCC are now being filed electronically. Electronic filing is mandatory for certain categories of respondents specified in section 1.913 of the Commission's rules, 47 C.F.R. §1.913 and others have the choice of filing manually or electronically.

For leasing arrangements in many of the wireless radio services, the Commission requires licensees and spectrum lessees to file the requested information (in the notifications or applications) electronically in ULS, while it encourages the parties to file electronically in all other situations in which the regulations permit such electronic filing. FCC Form 608 is an electronic form that will be filed via ULS. The Commission will provide a file format to allow respondents to complete the form electronically.

4. The Commission does not impose a similar information collection on the respondents. There are no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize burdens on all respondents, regardless of size. The Commission has limited the information requirements to those absolutely necessary for evaluating licensee compliance with Commission rules and to deter against possible abuses of the Commission's processes. The Commission will continue to examine alternatives in the future with the objective of eliminating unnecessary regulations and minimizing burdens on small businesses.

6. The information that is contained in this collection is intended to aid the Commission in finding ways to remove unnecessary regulatory barriers to the development of more robust secondary markets in radio spectrum usage rights in the wireless radio services. The collection of information and the form 608 are essential to ensuring that the Communications Act and the Commission's rules and policies are obeyed and that the Commission can maintain its responsibility to protect spectrum users from harmful interference. Without these reporting requirements, it would be difficult for the Commission to ensure compliance.
7. The special circumstances in this information collection are in our notification requirements. In those requirements, licensees are required to notify the Commission within 14 days of execution and at least 21 days in advance of operation. This requirement is requiring respondents to report information to the Commission in fewer than 30 days.
8. The Commission published a 60-day public notice which appeared in the Federal Register on October 23, 2013, 78 FR 63194, seeking comments from the public on the information collection requirements contained in this collection. No comments were received as a result of this notice.
9. Respondents will not receive any payments.
10. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR §0.459 of the FCC rules.
11. This collection does not address private matters of a sensitive nature.
12. **Hour burden estimates.** The Commission estimates that of the total number of licensees in most services who may participate in the option to enter into the types of spectrum leasing arrangements 10% will be lessors, and 5% lessees. We estimate that 85% of licensees in most services will be non-participants. In addition, the Commission estimates that approximately 50 non-licensees per year will enter into spectrum leasing arrangements as lessees.

The Commission predicts that all of the entities will use outside staff attorneys to prepare the notifications or applications.

We estimate that it will take an in-house secretary approximately 1 hour @ the GS-8 Step 5 level (equivalent), earning \$25.38/hr., to update and maintain copies of the files associated with the leasing arrangements.

Total Number of Respondents: 991.

Total Number of Annual Responses: 991.

Total Annual Burden Hours:

991 responses x 1 hr./response (clerical) = **991 hours.**

Total Annual In-House Cost: 991 responses x 1 hour/response x \$25.38/hr. = **\$25,151.58.**

13. Cost to the Respondent:

- a. Total annualized capital/start-up costs: \$0.00.
- b. Total annualized cost requested to prepare FCC 608 are:

There is no cost to file the application electronically with the FCC other than the cost of a long distance phone call and/or Internet access.

FCC application filing fees:

We estimate that approximately 75% of 991 various applications filed require an application fee of \$60 - \$385 each. (The balance of the respondents would be exempt from filing fees due to type of entity, i.e. public safety, governmental entities, non-commercial educational broadcast, or because the purpose for which they are filing does not require a fee.)

For purposes of this submission, we estimate the total application fees using an average of \$125 per filing:

991 total responses @ 75% (feeable) = 743 feeable filings.

743 filings @ \$125 average fee = \$92,875.

Consulting costs (attorney):

The Commission predicts that all of the entities will use outside staff attorneys to prepare the notifications or applications.

991 responses x 4 hours/response @ \$300.00 per hour (attorney fees) = \$1,189,200.

Total annual cost burden: \$92,875 + \$1,189,200 = \$1,282,075.

14. Cost to Federal Government:

FCC Form 608 applications estimated to be filed: 991.

991 applications x 1 hour = \$33,614.72
@ \$33.92 per hour (GS-11, Step 5) for an
Industry Analyst

The total annual estimate of government cost is: \$33,614.72.

15. There are no program changes to this collection. There are adjustments/decreases to the annual burden hours of 3,964 hours which are due to the Commission miscalculating the burden hours in its previous submission to OMB. Also, there are adjustments/increases to the annual cost burden of \$371,575 which are due to increases in the hourly consulting fees (attorney) for this collection.
16. The data will not be published for statistical use.
17. The Commission is requesting a continued waiver from displaying the OMB expiration date on FCC Form 608. Granting this waiver will prevent the Commission from destroying excess forms, having to update computer versions and thus reduce waste. All OMB-approved information collections are published in 47 CFR 0.408. This section includes the OMB control number, title of the collection and the OMB expiration date.
18. There are no exceptions to the “Certification Statement.”

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.