

SUPPORTING STATEMENT

The Commission requests an extension from the Office of Management and Budget (OMB) for a previously approved information collection on FCC Form 175 under OMB Control Number 3060-0600 (no change in reporting requirements).

A. Justification:

1. *Circumstances that make the collection necessary.* The FCC Form 175 is used by the public to apply to participate in competitive bidding (auctions) for Commission licenses and permits. Statutory authority for this information collection is contained in Sections 154(i), 309(j)(5), and 1404 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), and 1404; 47 C.F.R. §§ 1.2105, 1.2110, 1.2112.

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 adopting a new rule 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, that 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. See 47 C.F.R. § 1.2105(a)(2) (xii).

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).

Consistent with the R&O, the Commission sought approval from OMB under its Paperwork Reduction Act (PRA) emergency processing provisions, 5 U.S.C. § 1320.13, to revise the information collection on FCC Form 175 to add the additional certification to implement the requirements in Section 6004 of the 2012 Spectrum Act, 47 U.S.C. § 1404, and 47 C.F.R. § 1.2105(a)(2)(xii). On September 17, 2013, the Commission received emergency approval from OMB for this revision to FCC Form 175. The information collection requirements on FCC Form 175 have not otherwise changed. The Commission is requesting continued OMB approval for the information collection requirements on FCC Form 175 that were approved in the Commission's August 2013 emergency submission.

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

2. *Use of information.* The Commission's auction rules and related 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 and permits in furtherance of the public interest. The information collected on Form 175 is used by the Commission to determine if an 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. Commission staff reviews the information collected on FCC Form 175 for a particular auction as part of the pre-auction process, prior to the auction being held. Staff determines whether each applicant satisfies the Commission's requirements to participate in the auction and, if an applicant claims status as a particular type of auction participant, whether that applicant is eligible for the status claimed.

3. *Technological collection techniques.* Pursuant to the Commission's rules, an auction participant is required to complete and submit its FCC Form 175 electronically through the FCC Auction System. The Commission developed a centralized electronic system for collecting the information to reduce both public and agency administrative burden.

4. *Efforts to identify duplication.* There will be no duplicative information collected. The information sought is unique to each respondent and is not already available because the Commission does not impose a separate similar information collection on the respondents. Thus, there is no similar data available under another information collection.

5. *Impact on small entities.* In conformance with the Paperwork Reduction Act of 1995, the Commission has made an effort to minimize the burden on all respondents regardless of size by limiting the information collected on Form 175 to that which is necessary to evaluate and process the application, deter possible abuses of the processes, and confirm applicants' compliance with various applicable regulatory and statutory spectrum auction requirements. In addition, the Commission has made available tutorials and related

information to assist respondents, including small entities, in understanding what information should be submitted on FCC Form 175.

Decisions regarding whether to submit an application to participate in a given auction rest exclusively with the respondents. Thus, the frequency of filing is determined by the respondent. Filing information to support an applicant's qualification as a designated entity and eligibility for small business bidding credits, either generally or with respect to specific licenses, is also determined by the respondent/applicant. Small business ownership and gross revenues information/calculations must be updated when changes occur, and the need to make filings to reflect such changes are generally determined by the respondent/applicant.

6. *Consequences if information is not collected.* The Commission's auction program could not function in its current form without the collection of information on 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 depends in large part on the information collected on FCC Form 175. Without the information collected on FCC Form 175, the Commission would not be able to determine if an applicant is legally, technically, and financially qualified to participate in a Commission auction and has complied with the various applicable regulatory and statutory spectrum auction requirements.

7. *Special circumstances.* FCC Form 175 previously did not, and with the revision to implement 47 C.F.R. § 1.2105(a)(2)(xii) does not, have any of the characteristics that would have required separate justification under 5 C.F.R. § 1320.5(d)(2).

8. *Federal Register notice; efforts to consult with persons outside the Commission.* Pursuant to 5 C.F.R. § 1320.8, the Commission published a 60-day notice in the Federal Register on November 20, 2013 (78 FR 69670) regarding the extension of the information collection requirements on FCC Form 175. No comments were received in response to this notice.

9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts.

10. *Assurances of confidentiality.* Information collected on FCC Form 175 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information to the Commission as part of the pre-auction application process. However, to the extent that a respondent seeks to have certain information collected on FCC Form 175 withheld from public inspection, the respondent may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules. See 47 C.F.R. § 0.459.

11. *Questions of a sensitive nature.* This information collection does not ask questions of a sensitive nature.

12. *Estimate of the time burden of the collection on respondents.* Auctions occur on an irregular schedule. The Commission estimates that up to 500 respondents/applicants may submit a FCC Form 175 each year, depending on the number and nature of the auctions in any given year. The Commission estimates that up to 350 of those potential respondents/applicants would be required to respond to the additional certification required by 47 C.F.R. § 1.2105(a)(2)(xii).² Respondents/applicants determine whether to apply to participate in a Commission auction and, therefore, applicants determine the frequency of filing.

The Commission estimates that it will require up to 90 minutes for respondents/applicants to report the information requested on FCC Form 175. The Commission estimates that the additional certification required by 47 C.F.R. § 1.2105(a)(2)(xii) will not measurably increase the estimated average amount of time to complete FCC Form 175 across the range of respondents/applicants.

Total estimated annual hour burden: estimated 500 annual responses x 1.5 hours per response = 750 total estimated annual burden hours.

TOTAL ANNUAL BURDEN = 750 HOURS.

Total Number of Respondents: 500 applicants.

Total Number of Annual Responses: 500 FCC Form 175 applications.

In-House Cost: The Commission expects that FCC Form 175 will typically be prepared by the respondent using existing in-house staff (e.g., paralegal or other legal staff member) at a rate equivalent to the hourly rate of a GS-11, Step 5 government staff member (\$34.26/hour). Therefore, the in-house cost is as follows:

500 annual responses x 1.5 hours per response x \$34.26/hour = **\$25,695.**

² The certification required by 47 C.F.R. § 1.2105(a)(2)(xii) is only required of respondents/applicants seeking to participate in an auction required or authorized to be conducted pursuant to the 2012 Spectrum Act and, thus, will not be required for all auctions.

13. *Estimate of the cost burden of the collection on respondents.* There is no cost burden to the respondents. Respondents should not incur capital and start-up costs or operation and maintenance of purchase of services in connection with responding to the information collection on FCC Form 175. The information collected on FCC Form 175 should be collected and maintained as part of the customary and usual business or private practice of the respondent.

TOTAL CAPITAL AND START-UP COSTS or OPERATION AND MAINTENANCE (O&M): \$0.

14. *Estimate of the cost burden of the collection on the Commission.* The Commission estimates that on average staff review of the information collected on FCC Form 175, including time spent by staff attorneys, will take 30 minutes per application, including time to identify any deficiencies in an initial application, review resubmitted applications as necessary, and identify the nature of any legal issues requiring policy review.

Total Estimated Annual Cost to the Federal Government: 500 applications x 0.50 hours x \$57.70 (Attorney, GS-14/5) = \$14,425.00.

15. *Program changes or adjustments from the collection.* The Commission is reporting no change or adjustments in burden for this information collection.

16. *Collections of information whose results will be published.* The collection will not be published for statistical use. The information collected in FCC Form 175 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information to the Commission as part of the pre-auction application process. However, respondents/applicants may request confidential treatment of information collected on FCC Form 175 pursuant to section 0.459 of the Commission's rules. See 47 C.F.R. § 0.459.

17. *Display of expiration date for OMB approval of information collection.* The Commission seeks continued approval to not display the OMB expiration date on FCC Form 175 for the collection. The Commission will continue to use an edition date on FCC Form 175 in lieu of the OMB expiration date. Continued approval to not display the OMB expiration date on FCC Form 175 will prevent the Commission from having to constantly update the OMB expiration date on the electronic FCC Form 175 whenever a revision or three-year extension is requested. The Commission will continue to publish the OMB control number and OMB expiration date for FCC Form 175 in section 0.408 of the Commission's rules. See 47 C.F.R. § 0.408.

18. *Exceptions to certification statement for Paperwork Reduction Act submissions.* There are no exceptions to the certification statement but that this collection will be submitted to OMB under the delegated authority process since the annual burden is less than 5,000 burden hours.

B. Collections of Information Employing Statistical Methods:

The information collection in FCC Form 175 does not employ statistical methods, and the use of such methods would not reduce the burden or improve accuracy of results.