

#### **SUPPORTING STATEMENT**

The Commission is submitting this information collection to the Office of Management and Budget (OMB) requesting an extension of a previously approved information collection under the Commission rule Sections 1.2110, 1.2111, and 1.2112. There is no change in the reporting requirements.

#### **A. Justification:**

1. *Circumstances that make the collection necessary.* The Commission collects information required under the relevant rules in several contexts, including applications to participate in its auctions for spectrum licenses/authorizations, applications by winning bidders and others to obtain licenses/authorizations, and other circumstances related to authorizing the use of radio spectrum.

Beginning first on May 5, 1997, OMB approved under OMB Control No. 3060-0767, the Commission's collections of information pursuant to sections 1.2110, 1.2111, and 1.2112, 47 C.F.R. §§ 1.2110, 1.2111, and 1.2112, and their predecessors, regarding ownership and small business status of parties involved with Commission licenses. The Commission collects this information in several contexts, including when determining the eligibility of applicants to participate in Commission auctions, the eligibility of parties to hold a Commission authorization, the eligibility of parties to whom authorizations are being transferred, and the repayment by authorization holders of small business bidding credits received in Commission auctions.

Subsequent to OMB's original approval of these collections under OMB Control No. 3060-0767, the Commission sought and received OMB approval of information collections pursuant to these rules under OMB Control No. 3060-0600 for routine forms used in Commission auctions and under OMB Control No. 3060-0798 for routine forms used in for authorization holders.

Consequently, when requesting approval of this information collection in April 2011, the Commission reduced the estimated burden for OMB Control No. 3060-0767 given that much of the burden is now accounted for under OMB Control No. 3060-0600, for routine collections in the auction process, under OMB Control No. 3060-0798, for routine collections with respect to authorizations.

The Commission's rules require in part that authorization applicants and parties involved in authorization transfers submit ownership and related information, including any joint bidding agreements related to the authorization. For example, each applicant to participate in an auction for an authorization, or to obtain an authorization, or for consent to assign or transfer control of the authorization, must disclose fully the real party or parties in interest and must include certain detailed ownership information. Applicants that were winning bidders in a Commission auction are required to submit the terms, conditions and parties to any joint bidding arrangements.

In addition, each authorization applicant claiming small business status must make certain ownership disclosures sufficient to determine eligibility for small business status based upon a gross revenues calculation. (The term "small business" is used generically and includes small

businesses, very small businesses, consortia of small businesses and consortia of very small businesses, as those terms are defined in relevant Commission rules.)

Parties qualifying for small business benefits are required to maintain certain information to ensure compliance with Commission rules. Specifically: (1) small business authorization winners and their successors in interest will be required to maintain a file over the term of the authorization containing ownership and gross revenues information/calculations, including a description explaining how small business status was established, necessary to determine their eligibility as a small business, and (2) small business applicants that do not obtain the authorization(s) for which they applied shall maintain such files until the grant of such authorization(s) is final, or one year from the date of applying to participate in a Commission auction, whichever is earlier.

Commission rules also require current and future authorization holders that receive (or will receive) bidding credits based on their small business status or that are paying on an installment plan and wish to partition or disaggregate their authorizations, to make certain disclosures to the Commission. These disclosures are designed to prevent unjust enrichment by the recipient of bidding preferences should that party transfer a portion of its authorization to an entity not entitled to such bidding preferences. 47 C.F.R. 1.2111(e).

Statutory authorization for this collection of information is contained in 47 U.S.C. 154(i) and 309(j).

2. *Use of information.* Disclosures regarding ownership and gross revenues information and calculations are designed to ensure that applicants are qualified to hold Commission authorizations and, if applicable, to receive small business preferences. Disclosures regarding joint bidding agreements and the associated certification are designed to protect the fairness of the auction process. Disclosure of information regarding authorization transfers and partitioning is designed to deter unjust enrichment. Finally, records retention and maintenance by authorization holders that are small businesses is designed to prevent unjust enrichment and to facilitate enforcement efforts, if necessary.

3. *Technological collection techniques.* FCC Forms 175 and 601, which provide for the routine collection of information pursuant to these rules under OMB Control Nos. 3060-0600 and 3060-0798, must be submitted electronically. The Commission accepts electronic submission of information collected under these rules under OMB Control No. 3060-0767, either as supplements to the standard forms or as separate submissions, if the forms are not applicable or available for any reason.

4. *Efforts to identify duplication.* The Commission does not obtain the information collected under OMB Control No. 3060-0767 in any other collection. The Commission routinely collects information pursuant to the applicable rules in FCC Forms 175 and 601. However, circumstances on occasion arise where the format of the standard forms does not enable the party to provide all relevant information, or the forms are not directly applicable to the party's circumstances, for example, when a party seeks to supplement information outside of a normal filing window. In these circumstances, the forms are not sufficient to collect all relevant information.

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. 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. *Consequences if information is not collected.* The Commission's program of authorizing the use of the radio spectrum, which is central to its statutory purpose of regulating communications using the radio spectrum, depends upon the collection of necessary information from parties seeking such authorizations, including the information collected pursuant to these rules.
7. *Special Circumstances.* Respondents would only have to make one-time filings of the requested information, on an as-needed basis. This collection of information is consistent with the guidelines in 5 C.F.R. § 1320.
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 which appeared in the Federal Register on February 10, 2014 (79 FR 7667). No comments were received as a result of this notice.
9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts.
10. *Assurances of confidentiality.* There is no need for confidentiality with this collection of information. However, if applicants want to seek confidential treatment of their filing, they may request confidential treatment pursuant to 47 C.F.R. § 0.459 of the Commission's rules.
11. *Questions of a sensitive nature.* This information collection does not address any private matters of a sensitive nature.
12. *Estimate of the time burden of the collection on respondents.* The Commission estimates the annual hour burden of the collections of information pursuant to OMB Control No. 3060-0767, or, in other words, the collections of information pursuant to 47 C.F.R. §§ 1.2110, 1.2111, and 1.2112, in circumstances not covered by FCC Forms 175 and 601, to be 450 hours.

All of the information collected will be generated and maintained in connection with the party's usual business practice. However, parties with small business bidding credits ("small business parties") must provide additional information, including information regarding related parties, e.g., parent corporations, controlling shareholders, etc.

Based on past experience, the Commission estimates that up to 300 parties annually may need to provide information required by the relevant rules but beyond what is collected pursuant to FCC Forms 175 and 601. The Commission estimates that up to 200 of the 300 will be small business parties.

Based on past experience, the Commission estimates that the average burden should be 0.5 hour for parties without small business bidding credits and 2 hours for parties with small business bidding credits.

**Total Number of Respondents: 300.**

**Total Number of Annual Responses: 300.**

**Annual Burden Hours:**

100 non-small business parties x 0.5 hour =	50 hours
200 small business parties x 2 hours =	<u>400 hours</u>
<b>Total Annual Burden Hours:</b>	<b>450 hours</b>

**TOTAL ANNUAL HOUR BURDEN = 450 HOURS.**

13. *Estimate of the cost burden of the collection on respondents:*

a. Total Capital and Start-up Costs: \$0

As noted, all of the information collected will be generated and maintained in connection with the party's usual business practice. Accordingly, the Commission estimates total capital and start-up costs of \$0.00.

b. Total Operation and Maintenance and Purchase of Services:

As noted, all of the information collected will be generated and maintained in connection with the party's usual business practice. However, the Commission estimates that 50% of small business parties may use an attorney (\$300/hour) to review the information required and submit the information to the Commission. The Commission estimates that on average such parties will purchase one hour of attorney time for review and submission. Accordingly, the Commission estimates that the average annual total operation and maintenance and purchase of services cost will be 100 parties x 1 hour x \$300/hour = **\$30,000.**

**TOTAL ANNUAL CAPITAL AND START UP COSTS and OPERATION AND MAINTENANCE and PURCHASE OF SERVICES COSTS = \$30,000.**

14. *Estimate of the cost burden of the collection on the Commission:*

The Commission estimates that on average staff review of the information collected pursuant to OMB Control No. 3060-0767, including time spent by staff attorneys, will take 20 minutes (0.33 hours) per application.

Total Estimated Annual Cost to the Federal Government: 300 submissions x 0.33 hours x \$57.70 (Attorney, GS-14/5) = \$5,712.30.

**TOTAL ANNUAL COST TO THE GOVERNMENT: \$5,712.30.**

15. *Program changes or adjustments from the collection.* The Commission does not have any program changes to this collection. There are adjustments/increases of \$10,000 to the annual cost burden for this information collection which are due to increases in consulting fees for attorneys from \$200/hour to \$300/hour.

16. *Collections of information whose results will be published.* The data will not be published for statistical use.
17. *Display of expiration date for OMB approval of information collection.* The Commission is not seeking approval to avoid displaying the expiration date for OMB approval of the information collection.
18. *Exceptions to certification statement for Paperwork Reduction Act submissions.* There are no exceptions to the certification statement<sup>6</sup>.

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.