



Federal Communications Commission
Washington, D.C. 20554

July 24, 2014

Mr. Alexander Hunt
Chief, Information Policy Branch
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, N.W.
Washington, D. C. 20503

Dear Mr. Hunt:

The Federal Communications Commission (Commission) requests Office of Management and Budget (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 require the submission of a signed acknowledgment with 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 revised information collection no later than 26 days after it is received at OMB.

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 allocate for commercial use and license certain specified frequency bands using a system of competitive bidding not later than three years after enactment.¹

On March 31, 2014, the Commission released a Report and Order (R&O), FCC 14-31, GN Docket No. 13-185, 28 FCC Rcd 4610 (2014), in which it established service rules and competitive bidding procedures for the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands. On May 19, 2014, the Commission’s Wireless Telecommunications Bureau (WTB) released a Public Notice announcing that an auction to assign licenses in these frequency bands is will begin on November 13, 2014 and soliciting comment on proposed auction procedures for the auction. On July 23, 2014, the WTB released a Public Notice, DA 14-1018, adopting procedures for the auction.

The 1695-1710 MHz and 1755-1780 MHz bands are currently encumbered by Federal users. Licenses in these bands will be assigned by auction to commercial users who will operate on the spectrum on a shared basis with Federal incumbent users. Many Federal systems will, over time, relocate out of the bands, however, a limited number of Federal incumbent users will remain indefinitely. The R&O adopted new rules to address commercial operations in these bands in light of the temporary and indefinite sharing by Federal incumbent users and commercial licensees, including a requirement that commercial licensees

¹ The specified frequency bands are as follows: 1915-1920 MHz, 1995-2000 MHz, 2155-2180 MHz, the 15 megahertz of spectrum identified by the National Telecommunications and Information Administration (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).

operate on a co-equal, primary operations with Federal systems within specified geographic zones,² and a requirement that licensees in the 1755-1780 MHz band accept interference from Federal systems as long as such systems remain in the band.³

To implement these rules, the Public Notice adopting procedures for the auction includes a requirement that an applicant in any auction for licenses in the 1755-1780 MHz band submit with its FCC Form 175 a signed acknowledgement statement related to sharing and potential interference. The Commission therefore seeks approval for a revision to its previously approved collection of information on FCC Form 175 to permit collection of the signed acknowledgement statement. Under the revised collection, an applicant in any auction for licenses in the 1755-1780 MHz band will be required to submit a signed acknowledgement with its FCC Form 175 stating that (1) the applicant acknowledges that under 47 C.F.R. § 27.1134(f) it must accept any interference from incumbent federal operations in 1755-1780 MHz identified in an approved Transition Plan until such time as these operations vacate the 1755-1780 MHz band in accordance with 47 CFR part 301; (2) the applicant acknowledges that under 47 USC § 2.106, US note 91 it must accept harmful interference from certain incumbent federal systems, including federal earth stations at 25 sites; (3) the applicant accepts the risk that this may pose to any base station or associated equipment that it may deploy; any services it may offer; and any of its other business arrangements; (4) the applicant acknowledges that it understands these risks could potentially affect the value of any licenses in 1755-1780 MHz band and that it has considered these risks before submitting any bids for applicable licenses; and (5) this acknowledgement does not supersede the licensee's rights and obligations specified by law, rule, or other Commission action with respect to these frequencies.

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 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 understands its specific obligations with respect to Federal incumbent users and systems in the frequency bands in which it seeks to become licensed. 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 signed acknowledgement that is the subject of this revised collection will not be required for all auctions, and will only be used in auctions of licenses in the 1755-1780 MHz band.

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 auction to assign licenses for spectrum in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands is scheduled to commence on November 13, 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 two months prior to the start of the auction. Given the timing for the auction, the Commission will begin accepting FCC Form 175 applications to participate in the auction on August 28, 2014. Auction

² See 47 C.F.R. § 2.106, US note 88 and US note 91.

³ See 47 C.F.R. §27.1134(f). See also See 47 C.F.R. § 2.106, US note 91.

applicants are required to complete and electronically file the FCC Form 175 using the Commission's Integrated Spectrum Auctions System. Thus, any necessary revisions to the automated filing system to enable applicants to submit the signed acknowledgement with their FCC Form 175 applications 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 two months away, emergency approval is required. 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 and technical 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 and the Commission's ability to meet the February 2015 statutory licensing deadline. 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 is seeking 21 days of public comments under the emergency processing procedures for the revised information collection. 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 OMB's PRA Desk Officer to provide immediately any additional information needed to assure OMB's approval of this emergency request for this revised information collection no later than 26 days after it is received at OMB. Please have your PRA Desk Officer contact Cathy Williams at (202) 418-2918 or cathy.williams@fcc.gov with any questions or requests for additional information.

Sincerely,



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