

Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A**SUPPORTING STATEMENT****A. Justification:**

1. FCC Form 301, is used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing through an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction. For applicants to seek a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b) of the Communications Act of 1934, as amended (the "Act").

Similarly, to receive authorization for commencement of Digital Television ("DTV") operations, commercial broadcast licensees must file FCC Form 2100, Schedule A for a construction permit. The application may be filed anytime after receiving the initial DTV allotment and before mid-point in the applicant's construction period. The Commission will consider the application as a minor change in facilities. Applicants will not have to provide full legal or financial qualification information.

This collection also includes the third party disclosure requirement of 47 CFR § 73.3580. This rule requires applicants to provide local public notice, in a newspaper of general circulation published in a community in which a station is located, of requests for new or major changes in facilities and for changes of a station's community of license by AM and non-reserved band FM permittees and licensees. The notice must be completed within 30 days of tendering the application and must be published at least twice a week for two consecutive weeks in a three-week period. A copy of the notice and the application must be placed in the station's public inspection file, pursuant to Section 73.3527.¹

Finally, consistent with actions taken by the Commission in the *Third R&O*,² Form 301 accommodates commercial FM applicants applying in a Threshold Qualifications Window ("TQ Window") for a Tribal Allotment.³ A commercial FM applicant applying in the TQ Window, who was not the original proponent of the Tribal Allotment at the rulemaking stage, must demonstrate that it would have qualified in all respects to add the particular Tribal Allotment for which it is applying. Additionally, a petitioner seeking to add a Tribal Allotment to the FM Table of Allotments must file Form 301 when submitting its Petition for Rulemaking. The collection also accommodates applicants applying in a TQ Window for a Tribal Allotment that had been added to the FM Table of Allotments using the Tribal Priority under the new "threshold qualifications" procedures adopted in the *Third R&O*.

¹ The recordkeeping information collection requirement is contained in OMB Control Number 3060-0214, which covers Section 73.3527.

² *Third Report and Order*, MB Docket No. 09-52, FCC 11-190 (adopted Dec. 28, 2012) ("*Third R&O*").

³ Office of Management and Budget (OMB) approved the information collection requirements contained in FCC 11-190 on April 27, 2012.

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This Supporting Statement serves as an amendment to the February 2014 Supporting Statement, a non-substantive change request submitted to the Office of Budget and Management for approval of minor non-substantive changes made to FCC Form 301, OMB Control No. 3060-0027. The first footnote in the February 2014 Supporting Statement that was submitted to OMB stated:

“With this non-substantive change, FCC Form 301 is being renamed and encompassed by FCC Form 2100 and the electronic “Licensing Modernization” system. The former FCC Form 301 no longer exists, and its contents are fully contained within FCC Form 2100 and the “Licensing Modernization” system. Herein after former FCC Form 301 is renamed as FCC Form 2100, Schedule A.”

On February 20, 2014, OMB approved the new FCC Form 2100, OMB Control No. 3060-0027.

This Supporting Statement provides clarification regarding the status of the new Form 2100 and the existing Form 301, and the scope of the new Form 2100’s implementation. While it is true that the Media Bureau ultimately intends to wholly replace the Form 301 with the Form 2100 for all full power broadcast services, the Commission is not yet totally discontinuing the use of the Form 301. The new Form 2100 will be used once the particular broadcast service (DTV, FM, AM) becomes operational in the new electronic on-line licensing system known as “Licensing Modernization.” However, until the particular broadcast service transitions to the new “Licensing Modernization” system, applicants in that broadcast service will continue to use the existing Form 301, filing the form through the current Media Bureau licensing system, the Consolidated Database System (“CDBS”). Therefore, for now, in the initial phase of the “Licensing Modernization” roll-out, the new Form 2100 is replacing the Form 301 only for the filing of full-service digital television construction permits. The Form 301 is still being used, under the name Form 301, to apply for authority to construct a new commercial AM or FM radio station and to make changes to the existing facilities of such an AM or FM station.

The Commission is implementing a new on-line (electronic) licensing system called “Licensing Modernization” in which all FCC licensing forms, including FCC Form 301, will be combined into a single common form - FCC Form 2100. FCC Form 301 will be encompassed by the “Licensing Modernization” system and the new common form - FCC Form 2100. General questions, which were formally asked in all licensing applications, will compose the body of FCC Form 2100. The questions pertinent only to FCC Form 301 applicants will now be contained in Schedule A of FCC Form 2100. The substance of FCC Form 301 remains the same in the new system/ form. The wording of each question applicable to FCC Form 301 applicants in FCC Form 2100 is identical to that of the FCC Form 301, with one exception – “Alien Ownership,” which is discussed below as “Change #2” – but as stated, the substance remains the same. All that is changing is the name of the form and the order, in some cases, in which questions are asked. The burden hours and costs are not impacted by the minor non-substantive changes to the FCC Form 301, which will now be a part of the “Licensing Modernization” system and FCC Form 2100. The minor non-substantive changes that OMB approved on February 20, 2014 were as follows:

Change #1 – FCC Form 301 will be encompassed by FCC Form 2100, Schedule A and the “Licensing Modernization” system. All submissions are now made on-line (electronically). Questions applicable to all licensing applicants are asked in the body of the common FCC Form 2100, and questions pertinent only to FCC Form 301 applicants are contained in Schedule A of FCC Form 2100. The substance, burden hours, and costs are not impacted.

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Change #2 – “Alien Ownership.” In order to simplify an applicant’s compliance with section 310 of the Communications Act of 1934, as amended, the Commission will now ask the applicant if they are specifically in compliance with each component of section 310 of the Communications Act, as amended, relating to interest of aliens and foreign governments, rather than asking the general question if the applicant is in compliance. We have broken this question down so that the applicant has a better understanding of what it is certifying. The substance of the question remains the same, as does the cost and burden hours to respond to the question. The FCC Form 301, question 7 read:

Alien Ownership and Control. Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.

The new Form 2100 Alien Ownership certification reads (PLEASE NOTE: Initially only questions numbers 1 and 2 appear on electronic FCC Form 2100. If the applicant answers “no” to questions 1 and 2, question 3 through 9 do not appear. If the applicant answer “yes,” to either or both questions 1 and 2, then questions 3 through 6 appear. If the applicant proceeds to answer “no” to questions 3 through 6, then question 7 through 9 do not appear. If the applicant answers “yes” to any questions 3 through 6, then questions 7 through 9 appear.):

- 1) Is the applicant a foreign government or the representative of any foreign government as specified in Section 310(a) of the Communications Act?
- 2) Is this application, as provided for under Section 310(b) of the Communications Act, for a broadcast, common carrier, aeronautical en route, or aeronautical fixed radio station Authorization?
- 3) Is the applicant an alien or the representative of an alien? (Section 310(b)(1))
- 4) Is the applicant a corporation, or non-corporate entity, that is organized under the laws of any foreign government? (Section 310(b)(2))
- 5) Is the applicant an entity of which more than one-fifth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country? (Section 310(b)(3))
- 6) Is the applicant directly or indirectly controlled by any other entity of which more than one-fourth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any entity organized under the laws of a foreign country? (Section 310(b)(4))
- 7) Has the applicant received a ruling(s) under Section 310(b)(4) of the Communications Act with respect to the same radio service involved in this application?

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8) Has there been any change in the applicant's foreign ownership since issuance of the declaratory ruling(s) cited in response to Question 7?

8a) Enter the File or Docket Number of the Petition for Declaratory Ruling that the applicant has filed for its foreign ownership in connection with this application pursuant to Section 310(b)(4) of the Communications Act. It is not necessary to file a request for a foreign ownership declaratory ruling if the applicant attaches a showing that the requested authorization(s) is exempt from the provisions of Section 310(b)(4).

9) Does the applicant's foreign ownership comply with the declaratory ruling(s) cited in response to Question 7?

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

Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

2. Agency Use of Information: The data is used by FCC staff to determine whether commercial broadcast station construction permit applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

3. Consideration Given to Information Technology: The Commission requires commercial television broadcast station construction permits applicants to file FCC Form 2100, Schedule A electronically through the "Licensing Modernization" system.

4. Effort to Identify Duplication and Use Similar Information: This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. Effort to Reduce Small Business Burden: In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The Commission has limited the information requirements to those that are absolutely necessary for evaluating and processing the applications filed in a TQ Window and to deter possible abuses of the processes. Therefore, this information collection will not have a significant economic impact on small entities/businesses.

6. Less Frequent Data Collection: The frequency for filing the DTV station construction permit application will vary depending on the market. For all other uses of FCC Form 2100, the frequency of filing is determined by the respondents. However, no new or modified TV or DTV facilities can be obtained or modified without using FCC Form 2100, Schedule A.

7. Information Collection Circumstances: This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

8. Public Comment Period: Opportunity for public comment on this information collection requirement has been published in the *Federal Register* (77 FR 1486) on January 10, 2012. No comments were received from the public.

9. Payment or Gift: No payment or gift was provided to respondents.

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10. **Confidentiality of Information:** There is no need for confidentiality with this information collection.

11. **Justification for Sensitive Questions:** This information collection does not address any private matters of a sensitive nature.

12. **Estimate of Burden and Burden Hour Cost:** The following estimates are provided for public burden for this information collection:

<u>Services</u>	<u>Number of Applicants</u>
AM New & Major	476
AM Minor Change With AM Multiple Ownership Showings	250
AM Community of License Minor Change Applications	285 66
FM New & Major	298
FM New with P4RM to Amend FM Table Using Tribal Priority ⁴	20
FM New filed in TQ Window	40
FM Minor Change With FM Multiple Ownership Showings	1,200 274
FM Community of License Minor Change Applications	145
TV Minor Change	200
DTV With TV Multiple Ownership Showings	1,220 30
DTS	100
Total Number of Respondents:	4,604 Licensees/Permittees

<u>Number of Services</u>	<u>Respondent's Applications</u>	<u>Annual Hrly. Burden</u>	<u>Burden Hours</u>
AM New & Major	476	4.25 hours	2,023 hours
AM Minor Change With AM Multiple Ownership Showings	250	3.25 hours	812.50 hours
AM Community of License Minor Change Applications	285	6.25 hours	1,781.25 hours
FM New & Major	66	6 hours	396 hours
FM New with P4RM to Amend	298	4 hours	1,192 hours

⁴ A petitioner seeking to add a Tribal Allotment to the FM Table of Allotments must file FCC Form 301 when submitting its Petition for Rule Making ("P4RM").

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FM Table Using Tribal Priority	20	4 hours	80 hours
FM New filed in TQ Window	40	4 hours	160 hours
FM Minor Change	1,200	3 hours	3,600 hours
With FM Multiple Ownership Showings	274	6 hours	1,644 hours
FM Community of License Minor Change Applications	145	5.50 hours	797.50 hours
TV Minor Change	200	3 hours	600 hours
DTV	1,220	3 hours	3,660 hours
With TV Multiple Ownership Showings	30	5 hours	15 hours
DTS ⁵	100	3 hours	300 hours
Newspaper Requirements	<u>3,436</u>	1 hour	<u>3,436 hours</u>
Totals:	8,040		20,497.25 hours
	(responses)		(20,497 hrs. rounded)

Total Number of Responses: 8,040 Commercial Broadcast Station Construction Permit Applicants - FCC Form 2100, Schedule A Filings and Newspaper Notices

Total Annual Burden Hours: 20,497 hours

We assume that commercial broadcast station construction permit applicants will consult with an outside attorney and a consulting engineer to complete an FCC Form 2100, Schedule A. The time spent in consultation with these attorneys and consulting engineer will vary depending upon the application type.

The Commission estimates that it will take the respondent one hour to fulfill the newspaper notice requirement.

We estimate that commercial broadcast station construction permit applicants would have an average salary of \$100,000/year (\$48.08/hour).

<u>Services</u>	<u>Number of Applications</u>	<u>Respondent's Hrly. Burden</u>	<u>Hrly. Wage of Respondent⁶</u>	<u>Annual In-House Cost</u>
AM New & Major	476	4.25 hours	\$48.08	\$97,265.84
AM Minor Change	250	3.25 hours	\$48.08	\$39,065.00
AM Ownership Showings	285	6.25 hours	\$48.08	\$85,642.50
AM Community of License Change	66	6 hours	\$48.08	\$19,039.68

⁵ DTS technologies are covered under 47 CFR § 73.626, which authorizes the use of distributed transmission system ("DTS") technologies in the digital television ("DTV") service and also authorized changes to FCC Form 2100, Schedule A that are necessary to accommodate applications for a DTS facility.

⁶ Respondent is a commercial broadcast station construction permit applicant.

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FM New & Major	298	4 hours	\$48.08	\$57,311.36
FM New with P4RM to Amend				
FM Table Using Tribal Priority	20	4 hours	\$48.08	\$3,846.40
FM New filed in TQ Window	40	4 hours	\$48.08	\$7,692.80
FM Minor Change	1,200	3 hours	\$48.08	\$173,088.00
FM Ownership Showings	274	6 hours	\$48.08	\$79,043.52
FM Community of License Change	145	5.50 hours	\$48.08	\$38,343.80
TV Minor Change	200	3 hours	\$48.08	\$28,848.00
DTV	1,220	3 hours	\$48.08	\$175,972.80
TV Multiple Ownership Showings	30	5 hours	\$48.08	\$7,212.00
DTS	100	3 hours	\$48.08	\$14,424.00
Newspaper Notices	3,436	1 hour	\$48.08	<u>\$165,202.88</u>
Total Annual "In House" Cost:				\$991,998.58

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

13. Cost to Respondents: We assume that commercial broadcast station construction permit applicants would use an attorney (\$300/hour) and a consulting engineer (\$250/hour) to complete the FCC Form 2100, Schedule A.

An AM, FM, or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost of this publication is estimated to be \$113.25.

<u>Services</u>	<u>Hrly. Wage of Consultant</u>	<u>Consultant's Hrly. Burden</u>	<u>Number of Applications</u>	<u>Annual Cost Burden</u>
<u>AM:</u>				
New & Major	\$300	7 hours	476	\$ 999,600
	\$250	89.25 hours	476	\$10,620,750
Minor Change	\$300	2 hours	250	\$ 150,000
	\$250	88.25 hours	250	\$5,515,625
Multiple Ownership Showings	\$300	18 hours	285	\$1,539,000
	\$250	92.25 hours	285	\$6,572,813
Community of License Change	\$300	12 hours	66	\$ 237,600
	\$250	100 hours	66	\$1,650,000

FM:

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New & Major	\$300	7 hours	298	\$ 625,800
	\$250	71 hours	298	\$5,289,500
FM New with P4RM to Amend FM Table Using Tribal Priority	\$300	7 hours	20	\$ 42,000
	\$250	71 hours	20	\$ 355,000
FM New filed in TQ Window	\$300	7 hours	40	\$ 84,000
	\$250	71 hours	40	\$ 710,000
Minor Change	\$300	2 hours	1,200	\$ 720,000
	\$250	69 hours	1,200	\$20,700,000
Multiple Ownership Showings	\$300	28 hours	274	\$ 2,301,600
	\$250	73 hours	274	\$ 5,000,500
Community of License Change	\$300	6 hours	145	\$ 261,000
	\$250	94 hours	145	\$ 3,407,500
<u>TV:</u>				
Minor Change	\$300	2 hours	200	\$ 120,000
	\$250	45 hours	200	\$2,250,000
<u>DTV:</u>				
	\$300	2 hours	1,220	\$ 732,000
	\$250	34 hours	1,220	\$10,370,000
Multiple Ownership Showings	\$300	13 hours	30	\$ 117,000
	\$250	48 hours	30	\$ 360,000
<u>DTS:</u>				
	\$300	1 hour	100	\$ 30,000
	\$250	45 hours	100	<u>\$1,125,000</u>
Total AM/FM TV and DTV:				\$81,886,288

<u>Fees:</u>	<u>Number of Applications</u>	<u>Fee Cost</u>	<u>Total Fee Cost</u>
AM New & Major	476	\$3,310	\$1,575,560
AM Minor Change	250	\$ 830	\$ 207,500
AM Multiple Ownership Showings	285	\$3,310	\$ 943,350
AM Community of License Change	66	\$ 830	\$ 54,780
FM New & Major	298	\$3,485	\$1,038,530

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FM New with P4RM to Amend FM Table Using Tribal Priority	20	\$3,485	\$ 69,700
FM New filed in TQ Window	40	\$3,485	\$ 139,400
FM Minor Change	1,200	\$ 830	\$ 996,000
FM Multiple Ownership Showings	274	\$2,980	\$ 816,520
FM Community of License Change	145	\$ 830	\$ 120,350
TV Minor Change	200	\$ 830	\$ 166,000
DTV	1,220	\$ 830	\$ 1,012,600
TV Multiple Ownership Showings	30	\$3,720	\$ 111,600
DTS	100	\$ 830	\$ 83,000
		Fee Total:	\$7,334,890

985⁷ new/major/community of license change applications x 4 x \$113.25 = **\$446,205** in publication costs

Annual Cost Burden: \$991,998.58 + \$81,886,288 + \$7,334,890 + 446,205 = **\$90,659,381.58**
(\$90,659,382 rounded)

14. Cost to Federal Government: The Commission will use legal and engineering staff at the GS-14/Step 5 level (\$57.70/hour), paraprofessional staff at the GS-11/Step 5 level (\$34.26/hour), and clerical staff at the GS-5 level/Step 5 level (\$18.69/hour) to process these applications.

New & Major Change AM/FM/TV Applications = 834⁸

834 applications x \$57.70/hour x 41 hours =	\$1,972,993.80
834 applications x \$57.70/hour x 20 hours =	\$ 962,436.00
834 applications x \$34.26/hour x 1 hour =	\$ 28,572.84

⁷ This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications + 66 AM Community of License Change Applications + 145 FM Community of License Change Applications = 985 Applications.

⁸ This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications + 60 FM New Tribal-related applications = 834 Applications.

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834 applications x \$18.69/hour x 2 hours =	<u>\$ 31,174.92</u>
	\$2,995,177.56

Minor AM Applications = 250
AM Multiple Ownership Showings = 285
AM Community of License Change Minor Applications = 66

601 applications x \$57.70/hour x 1 hour =	\$ 34,677.70
601 applications x \$57.70/hour x 30 hours =	\$1,040,331.00
(No GS-11 Step-5 paraprofessional review required)	
601 applications x \$18.69/hour x 2 hours =	<u>\$ 22,465.38</u>
	\$1,097,474.08

Minor FM Applications = 1,200
FM Multiple Ownership Showings = 274
FM Community of License Change Minor Applications = 145

1,619 applications x \$57.70/hour x 1 hour =	\$ 93,416.30
1,619 applications x \$57.70/hour x 20 hours =	\$1,868,326.00
(No GS-11 Step 5 paraprofessional review required)	
1,619 applications x \$18.69/hour x 2 hours =	<u>\$ 60,518.22</u>
	\$2,022,260.52

Minor TV Applications = 200
DTV Applications = 1,220
TV Multiple Ownership Showings = 30

1,450 applications x \$57.70/hour x 1 hour =	\$ 83,665.00
1,450 applications x \$57.70/hour x 20 hours =	\$1,673,300.00
1,450 applications x \$34.26/hour x 6 hours =	\$ 298,062.00
1,450 applications x \$18.69/hour x 2 hours =	<u>\$ 54,201.00</u>
	\$2,109,228.00

DTS Applications = 100

(No GS-14 Step 5 legal review required)	
100 applications x \$57.70/hour x 20 hours =	\$115,400.00
100 applications x \$34.26/hour x 6 hours =	\$ 20,556.00
100 applications x \$18.69/hour x 2 hours =	<u>\$ 3,738.00</u>
	\$139,694.00

Total Cost to the Federal Government: \$8,363,834.16

15. **No Changes in Burden or Cost:** This non-substantive change will not increase the burden or cost to commercial television broadcast construction permit applicants.

16. **Plans for Publication:** The data will not be published.

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17. **Display of OMB Approval Date:** We request extension of the waiver not to publish the expiration date on the form. This will obviate the need for the Commission to update electronic forms upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR § 0.408. 18. **Exceptions to the Certification Statement:** There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.