

## Certification of TV Broadcast Licensee Technical Information in Advance of Incentive Auction

## SUPPORTING STATEMENT

## A. Justification:

1. This submission is being made to the Office of Management (OMB) for the approval of an information collection requirement contained in the Commission's *Incentive Auction Order*,<sup>1</sup> which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).<sup>2</sup> The Spectrum Act directs the Commission to hold a "reverse auction" in which broadcasters can voluntarily return some or all of their broadcast spectrum usage rights in exchange for incentive payments.<sup>3</sup> The Spectrum Act also requires the Commission to reorganize the broadcast television band, which will be accomplished by repacking stations, or moving broadcast stations to different channels.<sup>4</sup> The Spectrum Act directs the Commission to hold a forward auction of the ultra-high frequency (UHF) spectrum obtained as a result of the reverse auction and channel repacking.<sup>5</sup> This UHF spectrum will be auctioned as flexible-use licenses suitable for providing mobile broadband service. The Spectrum Act establishes a TV Broadcaster Relocation Fund (Fund) to reimburse reassigned broadcasters and multichannel video programming distributors (MVPDs) that incur expenses associated with continuing to carry relocated stations, for their reasonable expenses resulting from the post-auction channel reassignment.<sup>6</sup> The rules governing these processes are codified at 47 C.F.R. Parts 0, 1, 27, 73 and 74.

The Commission directed the Media Bureau to develop a form for use by each full power and Class A broadcast licensee to certify that it has reviewed the technical data on file with the Commission related to its current license authorization and confirm that the technical data is correct with respect to actual operations (FCC Form 2100, Schedule 381, Pre-Auction Technical Certification Form).<sup>7</sup> If the information currently on file with the Commission (in the Consolidated Database System (CDBS) or its' successor) is inaccurate, the broadcast licensee must file information to correct the recorded technical data. The form also requires each broadcast licensee to answer brief questions regarding the

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<sup>1</sup> Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, GN Docket 12-268, Report and Order, FCC 14-50, 29 FCC Rcd 6567, 6820 (2014) ("*Incentive Auction Order*").

<sup>2</sup> Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act).

<sup>3</sup> Spectrum Act § 6403(a)(1) (mandating "a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.").

<sup>4</sup> Spectrum Act §6403(b)(1) (requiring the FCC to "make such reassignments of television channels as the Commission considers appropriate" and "reallocate such portions of such spectrum as the Commission determines are available").

<sup>5</sup> Spectrum Act §6403(c)(1)(A) (requiring the FCC to conduct a "forward auction" to assign licenses for the use of spectrum reallocated from broadcast television as part of the incentive auction).

<sup>6</sup> Spectrum Act §6403(b)(4)(A).

<sup>7</sup> *Incentive Auction Order* at 6651, ¶ 183, n. 615.

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equipment currently in use at its licensed facility. The data collected on this form is necessary to ensure a stable, accurate database prior to the Incentive Auction and to facilitate the post-auction channel reassignment process.

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

The statutory authority for this collection is contained in Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act).

2. The Media Bureau will use the information provided by broadcast licensees to ensure that the technical data currently on-file in the Commission's Consolidated Database System (CDBS) for each licensee's protected facility is accurate. There is a risk that if the technical data for a licensed facility contained in CDBS is incorrect, the Commission will fail to protect the coverage area if that station is reassigned to a new channel following the incentive auction.<sup>8</sup> There is the possibility that the technical data in CDBS could be inaccurate either due to an inconsistency between the license authorization and the data contained in CDBS (i.e., an inconsistency in documentation) or as a result of a discrepancy between the license authorization and technical data that is not on file with the Commission (i.e., a discrepancy between the license authorization, correctly reflected in CDBS, and the actual operations of the licensee). If a licensee discovers either scenario, it must file an exhibit to FCC Form 2100, Schedule 381 explaining the discrepancy so that the information on-file can be corrected in CDBS. In addition, the Media Bureau will use the information to be filed on FCC Form 2100, Schedule 318 regarding equipment currently in use at each licensed facility to facilitate the channel reassignment process following the completion of the incentive auction.
3. Form 2100, Schedule 381 will be filed electronically in the Media Bureau's CDBS (or its successor system; the transition to a modernized version of this system is currently underway). Broadcast licensees are accustomed to filing forms via CDBS, which is the system used for submitting all broadcast-related FCC Forms.
4. No other agency imposes similar information collections on the respondents. There is no similar data available from any other source.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the information collection burden for all respondents, including small businesses. For example, the Commission considered and rejected requiring all broadcast licensees to provide an inventory of their equipment and facilities that would be affected by repacking as well as a preliminary estimate of their relocation costs. Citing the complexity of the transition and the number of variables that cannot be determined in advance of the incentive auction, the Commission declined to impose a burdensome inventory requirement.<sup>9</sup> Rather than an extensive inventory of all equipment and facilities, Form 2100, Schedule 381 requires broadcast licensees to provide standard identifying information about basic broadcast equipment (transmitter, antenna, transmission line and tower).

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<sup>8</sup> Repacking involves reorganizing television stations in the broadcast television bands so that the stations that remain on the air after the incentive auction occupy a smaller portion of the UHF band, thereby freeing up a portion of that band for new wireless uses. See *Incentive Auction Order* at 6617, ¶109.

<sup>9</sup> *Incentive Auction Order* at 6817, ¶611, n. 1725.

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Where possible, Form 2100, Schedule 381 provides multiple options from which the filer need only check the appropriate box.

Moreover, the Commission considered and rejected requiring broadcast licensees to estimate the cost of channel relocation prior to the auction. The Commission found that such estimates cannot be made accurately until post-auction channel reassignments have been made and those stations that will incur reimbursable expenses are identified.<sup>10</sup> That is, the Commission declined to require all broadcast licensees to provide speculative estimates before it is known which stations will be reassigned and where their new channel will be located.

6. Form 2100, Schedule 381 is a one-time data collection that must be completed in advance of the statutorily mandated incentive auction. This information collection is necessary for the Commission to carry out the goals of and to comply with the Spectrum Act. Without the information collected in Form 2100, Schedule 381, the Commission could not ensure that the data on which it needs to rely to determine the technical parameters of both those stations eligible to participate in the incentive auction and those that will be reassigned to new channels after the auction. For example, if these information collections are not completed, the Commission could protect the wrong service area of a station following the auction. Similarly, the part of the information collection regarding equipment currently in use will make the channel reassignment more efficient, for example, by identifying facilities that are currently operating with efficient equipment or a standard-compliant tower.
7. The collections are not being conducted in any manner inconsistent with 5 C.F.R. Part 1320.
8. The Commission published a 60-day public comment period in the Federal Register (79 FR 72000) on December 4, 2014 seeking comments from the public on the information collection requirements that are contained in this supporting statement. No comments were received from the public. (Pam, if we receive PRA comments we will change this boilerplate language).
9. No payment or gift will be provided to respondents in connection with this collection of information.
10. Some assurances of confidentiality are being provided to the respondents. Parties filing Form 2100, Schedule 381 may seek confidential treatment of information they provide pursuant to the Commission's existing confidentiality rules.<sup>11</sup>
11. There are no questions of a sensitive nature with respect to the information collected.

12. As of the date of this submission, 2,170 respondents are subject to the reporting requirement set out

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<sup>10</sup> *Id.*

<sup>11</sup> *See* 47 C.F.R. § 0.459.

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in the *Incentive Auction Order*. The average burden on respondents will be two hours. The Commission estimates that half of the respondents will fulfill the reporting requirement without any outside assistance. Therefore, the burden on respondents is as follows:

$$1,085 \text{ (respondents)} \times 2 \text{ hours/response} = \mathbf{2,170 \text{ hours.}}$$

This information collection will be required only one time. Therefore, the total burden hours equal **2,170 hours** (1,085 respondents x 2 hours/response).

The Commission estimates the burden to be two hours based on the time it is estimated to take respondents to gather the information necessary, log in to CDBS to verify the information currently in the database, and complete the form.

**Total Number of Respondents: 2,170.**

**Total Number of Annual Responses: 2,170.**

**Total Annual Burden Hours: 2,170 hours.**

**In-house Costs:** The Commission assumes that approximately half of respondents use “in-house” personnel whose pay is comparable to mid-level federal employees (GS-13/5); therefore, the Commission estimates respondents’ costs to be about \$49.32 per hour.

The Commission estimates the total cost to respondents using “in-house” personnel to be 1,085 (respondents) x 2 hours/response x \$49.32 = **\$107,024** (rounded).

13. Estimate of the total annual cost burden to the respondents resulting from the collection of information (excluding the value of the burden hours in #12, above).

The Commission assumes that approximately half of respondents use external engineering experts. The Commission estimates that engineering experts will charge approximately \$250 per hour.

The Commission estimates the total cost to respondents using external engineering experts to be 1,085 (respondents) x 2 hours of outside assistance/response x \$250/hour = **\$542,500**.

**Total annualized capital/start-up costs: None.**

**Total annual costs (purchase of services): \$542,500.**

**Total annualized costs requested: \$542,500.**

14. Estimates of annualized costs to the Federal government:

In #12(a), above, the Commission estimates that 2,170 broadcast licensees will file Form 2100, Schedule

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381 one time each.

The Commission will use GS 15/5 (\$68.56) staff engineers to review these requests. The Commission estimates that this will require .5 hours for this review per request.

2,170 requests x .5 hours/request x \$68.56/hour = \$74,388 (rounded).

**Total Cost to Federal Government: \$74,388.**

15. The Commission has program changes to this collection which are due to the information collection requirement, FCC Form 2100, Schedule 381, being adopted in FCC 14-50. These program changes/increases are as follows: **2,170** respondents; **2,170** responses; **2,170** annual burden hours; and **\$542,500** annual costs.
16. The Commission does not intend to publish the results of these collections of information.
17. The Commission is not seeking approval to not display the expiration date for OMB approval of these collections of information.
18. There are no exceptions to the certification statement.

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

The Commission does not anticipate that the collection of information will employ any statistical methods.