

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

December 14, 2015

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 on the FCC Form 175 (OMB Control Number 3060-0600), which is the form used to apply to participate in non-reverse 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 Spectrum Act, which, among other things, authorized the Commission to conduct incentive auctions, and directed that the Commission use this innovative tool for an incentive auction of broadcast television spectrum to help meet the Nation’s growing spectrum needs.¹

The information collection requirements reported under this revised collection are the result of various Commission actions—the latest of which was released on October 15, 2015—to implement this new and novel approach for use in the Commission’s broadcast incentive auction (BIA).

On June 2, 2014, the Commission released a Report and Order, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, FCC 14-50, 29 FCC Rcd 6567 (2014) (*Incentive Auction R&O*), in which it adopted general rules to govern the BIA, including the framework for various application disclosure and certification requirements that must be made by applicants seeking to participate in reverse and forward components of the BIA.²

Since the *Incentive Auction R&O* was released, the Commission has worked to determine final auction procedures for the reverse and forward auction components of the BIA. Over a series of subsequent orders and public notices—most recently on October 15, 2015—the Commission modified some of the previously-adopted information collection requirements for applicants to participate in the reverse and

¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012) (Spectrum Act), codified at 47 U.S.C. §§ 309(j)(8)(G), 1452.

² The BIA will have three main components: (1) a “reverse auction” in which broadcast television licensees will submit bids to voluntarily relinquish their spectrum usage rights in exchange for defined shares of proceeds from the “forward auction”; (2) a “repacking” of the broadcast television bands; and (3) a “forward auction” of initial licenses for flexible use of the newly available spectrum. See *id.* § 6403(a), (b) and (c), codified at 47 U.S.C. § 1452(a), (b), (c). See also *id.* § 6001(16) and (30) (defining “forward auction” and “reverse auction,” respectively).

forward auctions, and adopted additional information collection requirements for each auction.³ Separately, on July 20, 2015, the Commission released a Report and Order in which it updated many of its Part 1 competitive bidding rules, which apply to applicants seeking to participate in future non-reverse auctions for Commission licenses and permits, including the forward auction component of the BIA.⁴

Several modifications and refinements to the FCC Form 175 were required in order to implement the modified and new information collection requirements adopted by the Commission in the BIA and Part 1 decisions. The Commission is therefore seeking OMB's approval for revisions to its previously approved collection of information on FCC Form 175 to permit the collection of the additional information in future non-reverse auctions for Commission licenses and permits, including the forward auction component of the BIA, pursuant to the rules and information collection requirements adopted by the Commission in these decisions.

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 processes, and enhance the use of competitive bidding to assign Commission licenses and permits in furtherance of the public interest. The information collected on FCC 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 FCC 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. The Commission plans to continue to use the FCC Form 175 for all upcoming non-reverse auctions for Commission licenses and permits, including those required or authorized to be conducted pursuant to the 2012 Spectrum Act, collecting only the information necessary for each particular auction.

³ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions* First Order on Reconsideration and Notice of Proposed Rulemaking, FCC 15-67, 30 FCC Rcd 6668 (2015) (modifying certain rules and information collection requirements adopted in the *Incentive Auction R&O* for the reverse auction with respect to channel sharing agreements); *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016 Procedures for Competitive Bidding in Auction 1000, Including Initial Clearing Target Determination, Qualifying to Bid, and Bidding in Auctions 1001 (Reverse) and 1002 (Forward)*, Public Notice, AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, MB Docket No. 15-146, FCC 15-78, 30 FCC Rcd 8975 (2015) (adopting procedures for bidding in the reverse and forward auctions and additional information collection requirements for both auctions, and announcing the start date of the BIA); *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding*, Public Notice, AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, DA 15-1183 (rel. Oct. 15, 2015) (adopting procedures for applying to participate in the reverse and forward auctions, including additional information collection requirements for both auctions, and announcing the deadlines for filing applications to participate in the reverse and forward auctions).

⁴ See *Updating Part 1 Competitive Bidding Rules; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; Petition of DIRECTV Group, Inc. and EchoStar LLC for Expedited Rulemaking to Amend Section 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver; Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, and Third Report and Order, 30 FCC Rcd 7493 (2015), modified by Erratum, DA 15-959 (rel. Aug. 25, 2015) (*Part 1 R&O*).

As noted above, Congress has directed that the Commission use its incentive auction authority to conduct the BIA. To comply with directive, the Commission has scheduled the BIA to begin on March 29, 2016, which is the deadline for reverse auction applicants to commit to an initial bid option. The Commission's established pre-auction process for evaluating applications and identifying qualified bidders requires a substantial amount of review by Commission staff. Due the novel and complex nature of the BIA, combined with the new rules and requirements adopted in the *Part 1 R&O*, in order conduct the forward auction according to the announced schedule, the Commission will need to receive applications to participate in the forward auction at least three months prior to the start of the forward auction. Given the timing for the auction, the Commission will begin accepting FCC Form 175 applications to participate in the forward auction on January 26, 2016. Because the expected date on which applicants may begin submitting their FCC Form 175 applications to participate in the forward auction is fewer than two months away, emergency approval is required. Accordingly, the Commission is requesting emergency processing and approval of the revisions to FCC Form 175.

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 the forward auction component of the BIA, as well as in future non-reverse auctions for Commission licenses and permits.

If the Commission were to wait 120 days to formally notify the public and potential interested parties of its intent to revise the information collection requirements on FCC Form 175, the Commission's ability to begin accepting applications to participate in the forward auction component of the BIA would be substantially delayed, and would in turn substantially delay both the start of the auction and the Commission's ability to meet its statutory directive to conduct the BIA. Further, due to the emergency nature of this request, the Commission is requesting a waiver of the requirement to publish a 60-day notice in the Federal Register. However, on December 14, 2015, the Commission published a 21-day notice in the Federal Register concerning the revised information collection under the emergency processing procedures to give the public an opportunity to comment on this emergency submission. 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 your PRA Desk Officer to immediately provide any additional information needed to ensure OMB's approval of this emergency request for this new 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, if there are any questions or any additional information is required.

Sincerely,



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