

**Application to Participate in an FCC Auction,
FCC Form 175**

SUPPORTING STATEMENT

The Federal Communications Commission (Commission) requests an extension from the Office of Management and Budget (OMB) for a period of three years for a currently approved collection on FCC Form 175 under OMB Control Number 3060-0600.

A. Justification:

1. *Circumstances that make this collection necessary.* FCC Form 175 is used by the public to apply to participate in non-reverse auctions for Commission licenses and permits. The information collection requirements reported under this collection implement the Commission's competitive bidding authority under the Communications Act of 1934, as amended (Communications Act), and the Commission's competitive bidding rules. Statutory authority for this information collection is contained in Sections 154(i) and 309(j)(5) of the Communications Act, as amended, and sections 1.2105, 1.2110, 1.2112 of the Commission's rules, as amended. See 47 U.S.C. §§ 4(i), 309(j)(5), 47 C.F.R. §§ 1.2105, 1.2110, 1.2112.

In December 2015, the Commission sought approval from OMB under its Paperwork Reduction Act (PRA) emergency processing provisions, 5 U.S.C. § 1320.13, for (1) revisions to its approved collection of information under OMB Control Number 3060-0600 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 broadcast incentive auction (BIA), pursuant to the rules and information collection requirements adopted by the Commission in various decisions to govern the BIA and to update the Commission's Part 1 competitive bidding rules,¹ and (2) various other, non-substantive editorial/consistency edits and updates to FCC Form 175 that correct

¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, FCC 14-50, 29 FCC Rcd 6567 (2014); *Broadcast Incentive Auction Scheduled to Begin 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, FCC 15-78, 30 FCC Rcd 8975 (2015); *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding*, Public Notice, DA 15-1183, 30 FCC Rcd 11034 (WTB 2015); *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, FCC 15-80, 30 FCC Rcd 7493 (2015), modified by Erratum, DA 15-959 (rel. Aug. 25, 2015).

inconsistent capitalization of words and other typographical errors, and better align the text on the form with the text in the Commission rules both generally and in connection with recent non-substantive, organizational amendments to the Commission's rules. On January 14, 2016, the Commission received emergency approval from OMB for the revisions to the information collection on FCC Form 175 under OMB Control Number 3060-0600. The information collection requirements on FCC Form 175 have not changed since they were approved by OMB on January 14, 2016. The Commission is requesting continued OMB approval for the information collection requirements on FCC Form 175 that were approved in the Commission's December 2015 emergency submission.

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

2. *Use of information.* The Commission's auction rules and related 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 non-reverse auction for Commission licenses or permits. 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 Form 175 for all upcoming non-reverse auctions for Commission licenses and permits, including those required or authorized to be conducted pursuant to the Spectrum Act, collecting only the information necessary for each particular auction.

3. *Technological collection techniques.* Pursuant to the Commission's rules, an auction applicant is required to complete and submit its FCC Form 175 electronically through the FCC Auction System. The Commission developed a centralized electronic system for collecting the information to reduce both public and agency administrative burden.

4. *Efforts to identify duplication.* There will be no duplicative information collected. The information sought is unique to each respondent and is not already available because the Commission does not impose a separate similar information collection on the respondents. Thus, there is no similar data available under another information collection. Moreover, the information collected under this collection implements statutory requirements.

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 by limiting the information collected on Form 175 to that which is necessary to evaluate and process the application, deter possible abuse of the processes, and confirm applicants' compliance with various applicable regulatory and statutory spectrum auction requirements. In addition, the Commission makes available tutorials and related information to assist respondents, including small entities, in understanding what information should be submitted on FCC Form 175.

Decisions regarding whether to submit an application to participate in a given auction rest exclusively with the respondents. Thus, the frequency of filing is determined by the respondent. Filing information to support an applicant's qualification as a designated entity and eligibility for a small business bidding credit or a rural service provider bidding credit, either generally or with respect to specific licenses, is also determined by the respondent/applicant. Small business ownership and gross revenues information/calculations and rural service provider ownership and subscriber information must be updated when changes occur, and the need to make filings to reflect such changes are generally determined by the respondent/applicant.

6. *Consequences if information is not collected.* The Commission's auction program could not function in its current form without the collection of information on FCC Form 175. Licensing access to the public spectrum resource and recovery for the public of a portion of the value of the public spectrum resource depends in large part on the information collected on FCC Form 175. Without the information collected on FCC Form 175, the Commission would not be able to determine if an applicant is legally, technically, and financially qualified to participate in a Commission auction and has complied with the various applicable regulatory and statutory spectrum auction requirements.

7. *Special circumstances.* FCC Form 175 does not have any of the characteristics that would have required separate justification under 5 C.F.R. § 1320.5(d)(2).

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 in the Federal Register on March 30, 2016 (see 81 FR 17710) regarding the extension of the information collection requirements on FCC Form 175. No comments were received in response to this notice.

9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts.

10. *Assurances of confidentiality.* Information collected on FCC Form 175 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information to the Commission as part of the pre-auction application process. However, to the extent that a respondent seeks to have certain information collected on FCC Form 175 withheld from public inspection, the respondent may request

confidential treatment pursuant to section 0.459 of the Commission's rules for such information. See 47 C.F.R. § 0.459.

11. *Questions of a sensitive nature.* The information collection requirements do not ask questions of a sensitive nature.

12. *Estimate of the time burden of this collection on respondents.* Auctions occur on an irregular schedule. The Commission estimates that up to 500 respondents/ applicants may submit a FCC Form 175 each year, depending on the number and nature of the auctions in any given year. Respondents/applicants determine whether to apply to participate in a Commission auction and, therefore, applicants determine the frequency of filing. The Commission estimates that it will require up to 90 minutes for respondents/applicants to report the information requested on FCC Form 175 under the currently approved collection.

- a. Number of estimated applicants/respondents: 500 estimated annual applicants/respondents.
- b. Frequency of response: On-occasion.
- c. Total estimated annual hour burden per respondent: 1.5 hours per applicant/respondent for an estimated 500 annual responses. The total estimated annual hour burden is calculated as follows:

500 estimated annual responses x 1.5 hours per response = 750 total estimated annual burden hours.

- d. Total estimate of annualized in-house cost to respondents for the hour burden: \$26,332.50.
- e. Explanation of calculation: The Commission expects that FCC Form 175 will typically be prepared by the respondent using existing in-house staff (e.g., paralegal or other legal staff member) at a rate equivalent to the hourly rate of a GS-11, Step 5 government staff member (\$35.11/hour). Therefore, the in-house cost is as follows:

500 estimated annual responses x 1.5 hours per response x \$35.11/hour = \$26,332.50.

13. *Estimate of the cost burden of this collection on respondents.* There is no external cost burden to the respondents. Respondents should not incur capital and start-up costs or operation and maintenance costs for purchase of services in connection with responding to the information collection on FCC Form 175. The information collected on FCC Form 175 should be collected and maintained as part of the customary and usual business or private practice of the respondent.

TOTAL CAPITAL AND START-UP COSTS OR OPERATION AND MAINTENANCE (O&M): \$0.

14. *Estimate of the cost burden of this collection on the Commission.* The Commission estimates that, on average, staff review of the information collected on FCC Form 175, including time spent by staff attorneys, will take 30 minutes per application, including time to identify any deficiencies in an initial application, review resubmitted applications as necessary, and identify the nature of any legal issues requiring policy review.

Total Estimated Annual Cost to the Federal Government: 500 applications x 0.50 hours x \$59.13 (Attorney, GS-14, Step 5) = **\$14,782.50.**

15. *Program changes or adjustments from this collection.* The Commission is reporting no change in burden for the collection. Therefore, there are no program changes or adjustments to this collection.

16. *Collections of information whose results will be published.* The information collection will not be published, but, the information collected on FCC Form 175 is made available for public inspection. The Commission is not requesting that respondents submit confidential information to the Commission as part of the pre-auction application process, however, to the extent necessary, respondents/applicants may request confidential treatment pursuant to section 0.459 of the Commission's rules for information collected on FCC Form 175. *See* 47 C.F.R. § 0.459.

17. *Display of expiration date for OMB approval of information collection.* The Commission seeks continued approval to not display the OMB expiration date on FCC Form 175 for this information collection. The Commission will continue to use an edition date on FCC Form 175 in lieu of the OMB expiration date. Continued approval to not display the OMB expiration date on FCC Form 175 will prevent the Commission from having to constantly update the OMB expiration date on the electronic FCC Form 175 whenever a revision or three-year extension of this collection is submitted to OMB for review and approval. The Commission will continue to publish the OMB control number and OMB expiration date for the FCC Form 175 in the list of all OMB-approved information collections contained in section 0.408 of the Commission's rules, 47 C.F.R. § 0.408.

18. *Exceptions to certification statement for Paperwork Reduction Act submissions.* There are exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ statistical methods, and the use of such methods would not reduce the burden or improve accuracy of results.