

FCC Application for Radio Service Authorization
Wireless Telecommunications Bureau; Public
May 2016

3060-0798

Safety and Homeland Security Bureau

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 601 is a consolidated, multi-part application form that is used for market-based and site-based licensing for wireless telecommunications services, including public safety, which are filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains administrative information and a series of schedules used for filing technical and other information. This form is used to apply for a new license, to amend or withdraw a pending application, to modify or renew an existing license, cancel a license, request a duplicate license, submit required notifications, request an extension of time to satisfy construction requirements, or request an administrative update to an existing license (such as mailing address change), request a Special Temporary Authority or Developmental License. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction.

The data collected on FCC Form 601 includes the FCC Registration Number (FRN), which serves as a "common link" for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission use an FRN.

Records may include information about individuals or households, *e.g.*, personally identifiable information or PII, and the use(s) and disclosure of this information are governed by the requirements of a system of records notice or "SORN", FCC/WTB-1, "Wireless Services Licensing Records." There are no additional impacts under the Privacy Act.

On July 21, 2015, the Commission released a Report and Order in which it updated many of its Part 1 competitive bidding rules.¹ Of relevance to the information collection at issue here, the Commission: (1) implemented a new general prohibition on the filing of auction applications by entities controlled by the same individual or set of individuals (but with a limited exception for qualifying rural wireless partnerships); (2) modified the eligibility requirements for small business benefits, and updated the standardized schedule of small business sizes, including the gross revenues thresholds used to determine eligibility; (3) established a new bidding credit for eligible rural service providers; (4) adopted targeted attribution rules to prevent the unjust enrichment of ineligible entities; and (5) adopted rules prohibiting joint bidding arrangements with limited exceptions. The

¹ 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, FCC 15-80, 30 FCC Rcd 7493 (2015), modified by Erratum, 30 FCC Rcd 8518 (2015) (*Part 1 R&O*).

updated Part 1 rules apply to applicants seeking licenses and permits through competitive bidding.

Additionally, on June 2, 2014 the Commission released the *Mobile Spectrum Holdings R&O*, in which the Commission updated its spectrum screen and established rules for its upcoming auctions of low-band spectrum. Of relevance to the information collection at issue here, the Commission stated that it could reserve spectrum in order to ensure against excessive concentration in holdings of below-1-GHz spectrum.²

The Commission seeks approval for revisions to its previously approved collection of information under OMB Control Number 3060-0798 to permit the collection of the additional information for Commission licenses and permits, pursuant to the rules and information collection requirements adopted by the Commission in the *Part 1 R&O* and the *Mobile Spectrum Holdings R&O*, including the information collection and recordkeeping requirements associated with 47 CFR §§ 1.2110(j),³ 1.2112(b)(2)(iii), 1.2112(b)(2)(v), 1.2112(b)(2)(vii), and 1.2112(b)(2)(viii).⁴ Also, in certain

² *In the Matter of Policies Regarding Mobile Spectrum Holdings, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, WT Docket No. 12-269, Docket No. 12-268, Report and Order, FCC 14-63, 29 FCC Rcd 6133, 90 ¶ 135 (2014) (*Mobile Spectrum Holdings R&O*). See also *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding*, Public Notice, 30 FCC Rcd 11034, Appendix 3 (WTB 2015); *Wireless Telecommunications Bureau Releases Updated List of Reserve-Eligible Nationwide Service Providers in each PEA for the Broadcast Incentive Auction*, Public Notice, AU No. 14-252, (WTB 2016).

³ Section 1.2110(j) states that a designated entities must describe on their long-form applications, FCC Form 601, how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long-form applications all agreements that affect designated entity status such as partnership agreements, shareholder agreements, management agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, spectrum use agreements, and all other agreements including oral agreements, establishing as applicable, de facto or de jure control of the entity. Designated entities also must provide the date(s) on which they entered into each of the agreements listed. In addition, designated entities must file with their long-form applications a copy of each such agreement. In order to enable the Commission to audit designated entity eligibility on an ongoing basis, designated entities that are awarded eligibility must, for the term of the license, maintain at their facilities or with their designated agents the lists, summaries, dates and copies of agreements required to be identified and provided to the Commission pursuant to this paragraph and to §1.2114.

⁴ Section 1.2112 (b)(2) (iii) states list and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of de facto or de jure control. Such agreements and instruments include articles of incorporation and by-laws, partnership agreements, shareholder agreements, voting or other trust agreements, management agreements, franchise agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and any other relevant agreements (including letters of intent), oral or written;

* * * * *

(v) List separately and in the aggregate the gross revenues, computed in accordance with §1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium;

* * * * *

(vii) List and summarize any agreements in which the applicant has entered into arrangements for the use of any of the

circumstances, the Commission requires the applicant to provide copies of their agreements and/or submit exhibits. In addition, the Commission seeks approval for various other, non-substantive editorial/consistency edits and updates to FCC Form 601 that correct 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.

Statutory authority for this information collection is contained in 47 U.S.C. §§ 151, 152, 154, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534, 535 and 554.

The modified and new information collection requirements for this revised collection are as follows:

a) *Applicant Information*. To implement both the new general prohibition on the filing of auction applications by entities controlled by the same individual or set of individuals and the limited exception to this general prohibition for qualifying rural wireless partnerships, the Commission will require an applicant to indicate on the Main Form of FCC Form 601 whether the applicant is a qualifying rural wireless partnership or a member of a qualifying rural wireless partnership. If the applicant is a qualifying rural wireless partnership or a qualifying rural partnership member, it must list each member of the qualifying rural wireless partnership on its Main Form of FCC Form 601.

b) *Rural Service Provider Bidding Credit*. An applicant requesting a rural service provider bidding credit must assert on Schedule B of FCC Form 601 that it meets the qualification requirements for this credit by providing an exhibit with the following information:

i) for the Applicant, submit the combined number of commercial communications service subscribers to wireless, wireline, broadband, and cable services that the Applicant serves and provide a list of the name(s) and the Federal Information Processing Standard (FIPS) number(s) for each county in which the Applicant has at least one commercial wireless, wireline, broadband, or cable subscriber;

ii) for each of the Applicant's affiliates, controlling interests, and the affiliates of its controlling interests, submit the individual or entity's name, its FCC Registration Number (FRN), its relationship to the Applicant, and its combined number of commercial communications service subscribers to wireless, wireline, broadband, and cable services. For each of the Applicant's affiliates, controlling interests, and the affiliates of its controlling interests, also provide a list of the name(s) and the FIPS number(s) for each

spectrum capacity of the license that is the subject of the application; and

(viii) If claiming eligibility for a rural service provider bidding credit, provide all information to demonstrate that the applicant meets the criteria for such credit as set forth in §1.2110(f)(4).

county in which it has at least one commercial wireless, wireline, broadband, or cable subscriber;

iii) for each Disclosable Interest Holder (DIH) in the Applicant that will use, or has an agreement to use, more than 25% of the spectrum capacity of any license(s) to be acquired with bidding credits, submit the individual or entity's name, its FCC Registration Number (FRN), its relationship to the Applicant, the combined number, if any, of commercial communications services subscribers to wireless, wireline, broadband, and cable services that the Disclosable Interest Holder serves and whether the Applicant asserts that the DIH is independently eligible for the Rural Service Provider bidding credit;

iv) if neither the Applicant, nor any of its affiliates, controlling interests, or the affiliates of its controlling interests have at least one wireless, wireline, broadband, or cable subscriber in any market for which the Applicant is applying for a license, list the market(s) in which the Applicant, its affiliates, controlling interests, and the affiliates of its controlling interests have no such subscribers.

v) a detailed explanation demonstrating that: (A) the Applicant is in the business of providing commercial communications services; (B) the Applicant serves predominantly rural areas; and (C) the primary focus of the Applicant's business activity is the provision of services to rural areas (defined as counties with a population density of 100 or fewer persons per square mile); and

vi) If the Applicant is an existing rural partnership that was providing service as of July 16, 2015, provide a detailed explanation demonstrating that each member of the partnership is independently eligible for the RSP bidding credit by providing, with respect to each member of the partnership, the same information as is required as in b(i-v) above.

c) Agreements: The Commission is revising Schedule B of FCC Form 601 so that the Applicant is required to provide any agreements or arrangements, written or oral, which could affect its overall eligibility for designated entity benefits, including, where applicable, its eligibility to participate in closed bidding or its eligibility for the award of designated entity benefits for any particular license for which it claimed a bidding credit. Specifically, the Applicant is required to attach an exhibit summarizing the agreements (with appropriate references to specific provisions in the text of such agreements and instruments and the date(s) on which the applicant entered into the agreements) and provide copies of the agreements. If it is an agreement for the use of any spectrum capacity of the license(s) subject to this application, list in the exhibit any Disclosable Interest Holders that hold a ten percent or greater interest in the applicant and that use or have an agreement to use, on a license-by-license basis, more than 25% of the spectrum capacity of any license(s) awarded with bidding credits. Indicate what percentage of spectrum

capacity (as measured in megahertz) the Disclosable Interest Holder uses or has an agreement to use for each license.

In addition, if between the Form 175 deadline and through the release of the auction closing public notice, the Applicant, or any party that controls or is controlled by the Applicant, entered into any partnerships, joint ventures, consortia, or other agreements, arrangements, or understandings of any kind relating to the licenses in this application, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, the Applicant must attach an exhibit to Schedule B of FCC Form 601 describing the terms and conditions and identifying all parties to the agreement or arrangement.

The Applicant will also be required to state with greater specificity on Schedule B of FCC Form 601 what type of agreement it is providing to the Commission. Specifically, the Applicant must state whether the agreement relates to “Closed Bidding”, “Collusion-Based”, “Bidding/Joint Bidding”, “Designated Entity”, “Joint Venture”, “Partnership”, “Consortium”, “Post-Auction Market Structure”, “Operational”, “Transfer/Assignment”, or “Other”.

d) General Certifications. The Commission has revised the general certifications that must be made by certain applicants on Schedule B of FCC Form 601 to implement the modified and new rules adopted in the *Part 1 R&O* and the *Mobile Spectrum Holdings R&O*.

i) an Applicant claiming eligibility as a designated entity must certify that the Applicant has provided all agreements or arrangements that provide for the use by a Disclosable Interest Holder of more than 25% of the spectrum capacity (as measured by megahertz) of any license(s) that will be acquired with bidding credits.

ii) an Applicant claiming a rural service provider bidding credit eligibility must certify that it provided separate subscribership information for itself and for each of Applicant's affiliates, controlling interests, and the affiliates of its controlling interests.

iii) an Applicant claiming eligibility for reserve spectrum must certify that as of the FCC Form 175 filing deadline, it met the qualification criteria to bid on the reserved license(s) for which it applies in the Form 601.

iv) an Applicant participating in an auction certifies that it has provided a description of, and identified each party to, any partnerships, joint ventures, consortia, or other agreements, arrangements, or understandings of any kind relating to the licenses in this application, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, to which the Applicant, or any party that controls or is controlled by the Applicant, is a party, and which were

entered into as of the Form 175 deadline and through the release of the auction closing public notice.

v) an Applicant participating in an auction certifies that, except for agreements, arrangements or understandings specifically excluded under Part 1 of the Commission's rules, as of the Form 175 deadline and through the release of the auction closing public notice, the Applicant, or any party that controls or is controlled by the Applicant, did not enter any partnerships, joint ventures, consortia, or other agreements, arrangements, or understandings of any kind relating to the licenses in this application, including any agreements that address or communicate, directly or indirectly, bids, (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, with: any other applicant (or any party that controls or is controlled by another applicant), with a nationwide provider that is not an applicant (or any party that controls or is controlled by such a nationwide provider); or if the applicant is a nationwide provider, with any non-nationwide provider that is not an applicant (or with any party that controls or is controlled by such a non-nationwide provider).

2. The Commission, in accordance with its statutory responsibilities under the Communications Act of 1934, as amended, uses the information provided by applicants on FCC Form 601 to update its licensing database and to determine if the applicant is legally, technically and financially qualified to provide licensed services and to make proper use of the frequency spectrum.

For third party disclosure requirements, approximately 40% of the PLMRS respondents are required to comply with frequency coordination requirements. There is no additional time burden placed on the respondent for this third party requirement. Again, information about individuals or households, and the use(s) and disclosure of this information is governed by the requirements of system of records, FCC/WTB-1. All information collected is publicly available.

3. Electronic filing is mandatory for certain categories of respondents specified in 47 C.F.R. §1.913 and others have the choice of filing manually or electronically. Approximately 98% of all filings are submitted electronically.
4. This agency does not impose a similar information collection on the respondents. There are no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents, regardless of size. The Commission has limited the information requirements to those absolutely necessary for evaluating and processing each application and to deter against possible abuses of the processes.
6. Generally, the frequency of filing FCC Form 601 is determined by the applicant and/or licensee and the frequency of response can be on occasion or periodic.

7. This collection of information is consistent with the guidelines in 5 CFR § 1320.
8. The Commission published a 60-day notice which appeared in the Federal Register on March 9, 2016, 81 FR 12490, seeking comment from the public on the information collection requirements contained in this collection. No comments were received on the Paperwork Reduction Act (PRA) as a result of the notice.
9. Respondents will not receive any payments.
10. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR §0.459 of the FCC rules.

Information on the FCC Form 601 is maintained in the Commission’s system of records notice or ‘SORN’, FCC/WTB-1, “Wireless Services Licensing Records.” These licensee records are publicly available and routinely used in accordance with subsection b. of the Privacy Act, 5 U.S.C. 552a(b), as amended.

The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the authorization is valid. Paper records will be archived after being keyed or scanned into the database and destroyed when 12 years old. Electronic records will be backed up and deleted twelve years after the authorization is no longer valid.

11. This collection does not address private matters of a sensitive nature, and the PII is covered by the system of records notice or ‘SORN’, FCC/WTB-1, “Wireless Services Licensing Records”.
12. The Commission estimates that 253,320 respondents (applicants/licensees) will file FCC Form 601 applications annually and that the *average* burden per response is 1.25 hours.

The Commission estimates that 50% of 253,320 respondents (126,660) will complete the application themselves with no additional assistance and the remaining 50% (126,660) will contract the completion of the form to a law firm or application preparation service.

The Commission estimates the average burden per response to be approximately 1.25 hours for those respondents completing the forms themselves. For those respondents hiring a consultant, we estimate a burden of approximately 30 minutes (0.5 hours) to coordinate with the consultant.

The estimated annual burden is:

126,660 responses x 1.25 hours = 158,325 hours
 126,660 responses x .50 hours = 63,330 hours

Total Annual burden: 158,325 hours + 63,330 hours = 221,655 hours.

The Commission also estimates that between zero and 400 entities will annually file FCC Form 601

applications regarding eligibility for designated entity benefits. We therefore estimate that there will be 400 entities.

The Commission estimates that 50% of 400 respondents (200) will complete the application themselves with no additional assistance and the remaining 50% (200) will contract the completion of the form to a law firm or application preparation service.

The Commission estimates the average burden per response to be approximately 1.25 hours for those respondents completing the form themselves. For those respondents hiring a consultant, we estimate a burden of approximately 45 minutes (0.75 hours) to coordinate with the consultant.

The estimated annual burden is:

200 responses x 1.25 hour = 250 hours

200 responses x 0.75 hours = 150 hours

Annual burden hours: 250 + 150 = 400

TOTAL ANNUAL BURDEN HOURS: 221,655 + 400 = 222,055

TOTAL NUMBER OF RESPONDENTS: 253,320

TOTAL NUMBER OF RESPONSES: 253,320

Commission Rules require that certain applicants obtain frequency coordination prior to submitting their application to the FCC. We estimate that approximately 40% of the total respondents (101,328 respondents) are required to comply with frequency coordination requirements. There is no additional time burden placed on the respondent for this third party disclosure requirement, however, it adds an extra “step” to the application filing requirements. Applicants forward their applications via the non-profit private sector frequency coordinators designated by type of radio service to the FCC. The frequency coordinator then forwards the application and application remittance to the FCC. The frequency coordinator must file electronically.

“In-House Cost”:

Assuming that 50% of the respondents use personnel comparable in pay to a mid-to-senior level federal employee (GS-13, Step 5) to prepare the collection, we estimate the cost to be about \$50.04 per hour @ 1.25 hours per filing. The cost per filing: \$50.04 X 1.25 = \$62.55.

126,660 applications x \$62.55 per filing = \$7,922,583.00

The Commission estimates that 50% will contract the completion of the form to a law firm or application preparation service and will spend approximately 30 minutes (0.5 hours) coordinating this information. Assuming they use personnel comparable in pay to a mid-to-senior level federal employee to coordinate this submission we estimate the cost to be approximately \$50.04 per hour @ 0.5 hours per filing. The cost per filing = \$25.02.

$$126,660 \text{ applications} \times \$25.02 \text{ per filing} = \$3,169,033.20$$

Assuming that 50% of the respondents filing the 601 annually for designated entity benefits use personnel comparable in pay to a mid-to-senior level federal employee (GS-13, Step 5) to prepare the collection, we estimate the cost to be about \$50.04 per hour @ 1 hour per filing. The cost per filing = \$50.04.

$$200 \text{ responses} \times \$50.04 \text{ per response} = \$10,008.00$$

The Commission estimates that 50% will contract the completion of the form to a law firm or application preparation service and will spend approximately 30 minutes (0.5 hours) coordinating this information. Assuming they use personnel comparable in pay to a mid-to-senior level federal employee to coordinate this submission we estimate the cost to be approximately \$50.04 per hour @ 0.5 hours per filing. The cost per filing = \$25.02.

$$200 \text{ responses} \times \$25.02 \text{ per response} = \$5,004.00$$

TOTAL IN-HOUSE COST:

$$\$7,922,583.00 + \$3,169,033.20 + \$10,008.00 + \$5,004.00 = \$11,106,628.20$$

13. Cost to the Respondent:

- a. Total annualized capital/start-up costs: \$0.00
- b. Total annualized cost requested to prepare FCC 601 are:

There is no cost to file the application electronically with the FCC.

FCC application filing fees:

We estimate that approximately 75% of 253,320 various applications filed require an application fee of \$65-\$430 each. (The balance of the respondents would be exempt from filing fees due to type of entity, i.e. public safety, governmental entities, non-commercial educational broadcast, or because the purpose for which they are filing does not require a fee.)

For purposes of this submission, we estimate the total application fees using an average of \$125 per filing:

$$253,320 \text{ total respondents} \times 75\% \text{ (feeable)} = 189,990 \text{ feeable filings}$$

$$189,990 \text{ filings} \times \$125 \text{ average fee} = \$23,748,750$$

We estimate that 50% of the respondents will contract out the completion of the form and would use an attorney or application preparation service at a cost of \$300/hour to prepare the FCC 601 and take the consultant 1.25 hours to complete each form.

$$126,660 \text{ applications} \times 1.25 \text{ hours} \times \$300/\text{hour} = \$47,497,500$$

Regarding respondents of eligibility for designated entity benefits, there is no application fee because the services involved are subject to auctions.

We estimate that 50% of the respondents will contract the completion of the form and would use an attorney or application preparation service at a cost of \$300 per hour to prepare in 1 hour the FCC Form 601.

$$200 \text{ applications} \times 1 \text{ hour} \times \$300 \text{ hour} = \$60,000$$

TOTAL ESTIMATED RESPONDENT COST: \$23,748,750 + \$47,497,500 + \$60,000 = \$71,306,250

14. Cost to the Federal Government:

FCC Form 601 Applications estimated to be filed: 253,320

$$126,660 \text{ applications} \times 30 \text{ mins. (0.50 hrs)} \\ @ \$23.72 \text{ per hour (GS-7 Step 5) for an Industry Analyst} = \$1,502,187.60 \text{ (Processing)}$$

$$126,660 \text{ applications} \times 10 \text{ mins. (0.166 hrs)} \\ @ \$23.72 \text{ per hour (GS-7 Step 5) for an} = \$498,726.28 \text{ (Processing)}$$

Industry Analyst

Total = \$2,000,913.88

15. The Commission has a program change/increase of 100 to the annual burden hours which is due to the information collection requirements associated with FCC Form 601 that were adopted in the *Part 1 R&O* and the *Mobile Spectrum Holdings R&O*.
16. The data will not be published for statistical use.
17. The Commission is requesting a continued waiver from displaying the OMB expiration date on FCC Form 601. Granting this waiver will prevent the Commission from destroying excess forms, having to update computer versions and thus reduce waste. All OMB-approved information collections are published in 47 CFR 0.408. This section includes the OMB control number, title of the collection and the OMB expiration date.
18. The Commission published a 60 day notice (81 FR 12490) and a 30 day notice (81 FR 39537) in the Federal Register seeking comments from the public on the information collection requirements contained in this collection. In the notices, the Commission inadvertently stated rule section **47 CFR 1.2110(j)** as Section 1.2210(j). With this submission to OMB, the Commission is correcting this typo and making it known that the correct rule section is **47 CFR 1.2110(j)**. There are no exceptions to the “Certification Statement.”

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.