

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

December 16, 2016

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 OMB to authorize emergency processing of a submission of a collection of information, in accordance with 5 CFR 1320.13. The collection of information is a new collection entitled "Reverse Auction (Auction 1001) Incentive Payment Instructions from the Reverse Auction Winning Bidder".

This information collection is necessary to carry out the Incentive Auction program, which is a high priority and time-sensitive program.

(a) Determination

The Commission has determined that the collection of information is needed prior to the expiration of time periods established under 5 CFR part 1320, and is essential to the mission of the agency, and the agency cannot reasonably comply with the normal clearance procedures under said part because public harm is reasonably likely to result if normal clearance procedures are followed. The basis for this determination is as follows.

The Spectrum Act mandates "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".¹

The Commission conducted notice-and-comment rulemaking to implement the Spectrum Act, and ruled in the Incentive Auction Report and Order that:

"we adopt the Commission's proposal to require successful bidders in the reverse auction to submit additional information to facilitate incentive payments. As mentioned in the NPRM, we envision that the information would be submitted on standardized incentive payment forms similar to the Automated Clearing House ("ACH") forms unsuccessful bidders in typical spectrum license auctions use to request refunds of their deposits and upfront payments. This information collection is necessary to facilitate incentive payments and should not be burdensome to successful bidders. Specifically, without further instruction and bank account information from successful bidders, the Commission would not know

¹ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (Spectrum Act) § 6403(a)(1).

where to send the incentive payments.”² [footnotes omitted]

The information collection for which we are requesting emergency processing is the standardized incentive payment form referred to in the paragraph above. The information collection must be approved and ready to use as soon as the amounts of incentive payments due to particular winning bidders is determined, so as to avoid a delay in winning bidders’ spectrum becoming available for assignment to other uses. This is because the deadlines to terminate operations on pre-auction channels are set in terms of months after the licensee receives its incentive payment.³

(b) Time Period for OMB Action

We request that OMB approve this information collection not later than January 17, 2017.

(c) Consultation with Public

The Commission has taken steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. The Commission’s NPRM in this proceeding proposed requirements to require all winning bidders to submit additional information to facilitate incentive payments.⁴ After issuing the NPRM the Commission conducted numerous workshops other direct outreach efforts to assure that the public was aware of its proposals and the opportunity to comment.⁵

The Commission received and considered comments in response to the NPRM, and subsequently issued the Incentive Auction Report and Order (R&O), which adopted the NPRM’s proposals in light of the comments received, and described how winning bidders would be required to submit additional information to facilitate incentive payments.⁶

After the Commission issued the Incentive Auction R&O, it received petitions for reconsideration. The Commission reviewed these petitions and subsequently issued a Second Order on Reconsideration, which largely affirmed its decisions in the Incentive Auction R&O, but made certain clarifications and

² Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567 (2014) (“Incentive Auction R&O”) at 537.

³ 47 CFR § 73.3700(b)(4)

⁴ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Notice of Proposed Rulemaking, 27 FCC Rcd 12357 (2012) (NPRM) at 283.

⁵ See, e.g., FCC Announces Panelists for September 30, 2013, Workshop on Issues Surrounding the Reassignment of TV Stations After the Incentive Auction, GN Docket No. 12-268, Public Notice, 28 FCC Rcd 13805 (2013); FCC Announces Details for June 25, 2012 TV Broadcaster Relocation Fund Workshop, GN Docket No. 12-268, News Release, 2012 WL 1965368 (rel. June 1, 2012); FCC Announces Details for May 22, 2012 Channel Sharing Workshop, GN Docket No. 12-268, News Release, 2012 WL 1524622 (rel. May 1, 2012). In addition, the Media Bureau conducted a series of webinars regarding the incentive auction for State Broadcasters Associations in 2011 and 2012. Moreover, representatives of the Media Bureau have spoken at a number of conferences about the incentive auction since the enactment of Spectrum Act, including, among others, National Association of Broadcasters (NAB) Shows, Association of Public Television Stations (APTS) Public Media Summits, and National Alliance of State Broadcasters Associations (NASBA) Winter Meetings.

⁶ Incentive Auction R&O at 537.

modifications in response to issues raised by the petitioners.⁷

(d) Federal Register Notice

The Commission has submitted for publication in the Federal Register the notice prescribed by §1320.5(a)(1)(iv), and said notice includes a statement that we are requesting emergency processing, and the time period within which we have requested OMB to approve the collection of information.

The Commission's staff can provide any additional information needed to ensure OMB's approval of this emergency request. Please have your PRA Desk Officer contact Nicole Ongele at (202) 418-2991 or nicole.ongele@fcc.gov, if there are any questions or if any additional information is required.

Sincerely,



Mindy J. Ginsburg
Deputy Managing Director
Federal Communications Commission

⁷ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Second Order on Reconsideration, 30 FCC Rcd 6746 (2015).