

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 "Payment Instructions from the Eligible Entity Seeking Reimbursement from The TV Broadcaster Relocation Fund".

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 requires the Commission to reimburse broadcast television licensees for costs "reasonably incurred" in relocating to new channels assigned in the repacking process and Multichannel Video Programming Distributors (MVPDs) for costs reasonably incurred in order to continue to carry the signals of stations relocating to new channels as a result of the repacking process or a winning reverse auction bid.¹ In addition, under the Spectrum Act, the Commission must make all reimbursements within three years after completion of the forward auction (the "Reimbursement Period").²

The Commission decided through notice-and-comment rulemaking that it will issue all eligible broadcasters and MVPDs an initial allocation of funds based on estimated costs, which will be available for draw down (from individual accounts in the U.S. Treasury) as the entities incur expenses, followed by a subsequent allocation to the extent necessary. The reason for allowing eligible entities to draw down funds as they incur expenses is to reduce the chance that entities will be unable to finance necessary

¹ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (Spectrum Act) § 6403(b)(4)(A)(i), (ii).

² Spectrum Act § 6403(b)(4)(D).

relocation changes.³

The information collection for which we are requesting emergency processing is necessary for eligible entities to instruct the Commission on how to pay the amounts the entities draw down, and for the entities to make certifications that reduce the risk of waste, fraud, abuse and improper payments. If the information collection is not approved by the time the eligible entities are ready to incur expenses, then some entities may need to delay their relocation until the information collection is approved and the entities are able to draw down funds. This delay would in turn result in either suspending the entity's broadcast service to the public until it could relocate, or delaying the use of the entity's former spectrum for new uses.

(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 approaches for reimbursing eligible entities and for preventing waste, fraud and abuse, and invited comments on those or alternative approaches.⁴ After issuing the NPRM the Commission conducted numerous workshops and 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 analyzed the NPRM's proposals in light of the comments received, and specified how relocation costs would be reimbursed.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 modifications in response to issues raised by the petitioners.⁷

³ 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 609.

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 334-354.

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 598-654.

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).

(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