

## **SUPPORTING STATEMENT**

### **A. Justification:**

**1. Explain in detail the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Provide a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.**

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”. The Commission requests OMB approval for this information collection by January 17, 2017 because it is necessary to carry out the Incentive Auction program, which is a high priority and time-sensitive program.

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”.<sup>1</sup>

The Federal Communications Commission (“Commission” or “FCC”) 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 where to send the incentive payments.”<sup>2</sup> [footnotes omitted]

The information collection for which we are requesting approval is the standardized incentive payment form referred to in the paragraph above.

Statutory authority for this information collection is contained in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (Spectrum Act) § 6403(a)(1).

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

<sup>2</sup> 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.

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

**2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information will be used by the Commission, for several purposes:

- a) To match the information submitted in this collection to existing information in the Commissions records concerning the winning bidder and the amount of payment due to the winning bidder.
- b) To collect contact information for a person whom the Commission can contact to resolve any questions that arise regarding disbursement of the incentive payment.
- c) To establish whom the winning bidder has authorized to enter its banking information on FCC's online system.
- d) To establish the winning bidder's preference as to whether FCC should disburse the incentive payment to the winning bidder or to a third party payee.
- e) To establish the identity of the third party payee, if any.
- f) To obtain signed, notarized certifications from the winning bidder and the third party payee (if any) to protect the Government for liability and deter waste, fraud, abuse and improper payments.
- g) To obtain the information needed to route the incentive payment to the proper bank account of the winning bidder or third party payee through the Automated Clearing House (ACH) system.
- h) To obtain evidence confirming that the bank account to which the incentive payment will be deposited is owned by the winning bidder or third party payee.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical or other technological techniques or other forms of information technology, e.g., permitting electronic submissions of responses, and the basis for the decision for adopting this means of collection.**

The information will be collected by using two methods. The first is a fillable PDF form, which will allow the respondent to enter its information with minimal burden and print out a completed paper form ready for signature and notarization. The second method is for the respondent to enter its information on-line directly into FCC's database. FCC will compare the information submitted on the paper form with the information entered on-line by the respondent, and any difference will result in FCC deferring payment until it can confirm the correct information. This verification through dual entry of the data is necessary to reduce the risk that errors such as the respondent mis-typing a routing number could result in improper payments.

**4. Describe efforts to identify duplication.**

This information collection avoids duplication by refraining from collecting information FCC already has, except when needed to match information on this form to existing data. For example, this information collection does not ask about the amount of the incentive payment that is due to the winning bidder, because FCC will compute that amount from information FCC has collected outside this form. This information collection also reduces duplication by consolidating the submissions by the winning bidder and the third party payee into a single form, rather than using separate forms that would require duplicate reporting of identifying information.

**5. If the collection of information will have *significant* economic impacts on small businesses, organizations or other small entities, describe any methods used to minimize the burden on these entities.**

Some respondents will be small entities. FCC has taken several steps to minimize burden on small entities:

- a) Respondents will not need to acquire any specialized information technology to complete the information. The fillable PDF form is self-contained and will run on ordinary office computers. On-line submission will require only ordinary web browsers that respondents already have, and a security token that FCC will provide to the respondent.
- b) The information collection is designed so respondents can complete it without need for outside experts or consultants. Instructions are integrated into each question. The form is in plain language, except for certain technical terms which will be familiar to respondents because they are participating in the incentive auction process.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.**

This is a one-time collection. If the collection was not conducted, then FCC would not know to which party to disburse incentive payments (that is, to the winning bidder or a third party payee), and FCC would not have information to send the payment to the correct bank account through the ACH system. If FCC could not disburse the incentive payments, then winning bidders would not be obligated to vacate their current spectrum to make room for other users.

**7. Explain any special circumstances that would cause an information collected in a manner *inconsistent* with OMB's guidelines which are stated in 5 C.F.R. § 1320.5(d)(2).**

There are no special circumstances associated with this information collection that would make it inconsistent with OMB's guidelines in 5 C.F.R. § 1320.5(d)(2).

**8. Identify the date and page number of publication in the Federal Register of the agency's Paperwork Reduction Act (PRA) 60-day notice, required by 5 C.F.R. § 1320.8(d), soliciting comments on the information collection requirement(s) prior to submission to OMB.**

The Commission requests emergency OMB processing for this new information collection and the standardized incentive payment form. 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. Therefore, the FCC seeks waiver of the 60-day notice requirement due to the emergency nature of this request under 5 C.F.R. § 1320.8(d). However, the Commission has prepared and will publish a 21-day notice, announcing submission of this emergency request. **9. Explain any decision to provide any payment or gift to respondents, other than the remuneration of contractors or grantees.**

FCC will not provide any payment or gift to respondents, although the information collection is required to obtain a benefit for which the respondent is qualified.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

The information collection includes information identifying bank accounts and providing account and routing numbers to access those accounts. FCC considers that information to be records not routinely available for public inspection under 47 CFR 0.457, and exempt from disclosure under FOIA exemption 4 (5 U.S.C. § 552(b)(4)).

**11. Provide additional justification for any questions of a sensitive nature.**

There are no questions of a sensitive nature.

**12. Provide estimates of the burden hours for the collection of information.**

This is a one-time collection of information.

FCC projects there will be 500 winning bidders in the incentive auction, and half of them will choose to have their incentive payment disbursed to a third party payee. Therefore, FCC projects 500 winning bidder respondents and 250 third party payee respondents.

FCC estimates that the average time necessary to complete the response, including the time to gather information and have it reviewed, is:

Winning Bidder paper form	5 hours
Winning Bidder on-line	1 hour
Third Party Payee paper form	2 hours
Third Party Payee on-line	1 hour

The time needed to complete the on-line submission is substantially less than the paper form, because respondents will have already gathered and reviewed the information when preparing their paper form and do not need to repeat those steps for the on-line submission, and because the on-line submission does not need to be notarized.

Type of	Number of	Frequency of	Total Number	Average Hours	Total Burden
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Respondent and Response	Respondents	Response	of Responses	per Response	Hours
Winning Bidder paper form	500	1	500	5	2,500
Winning Bidder on-line	Same respondents as above	1	500	1	500
Third Party Payee paper form	250	1	250	2	500
Third Party Payee on-line	Same respondents as above	1	250	1	250
Total	750	1	1,500	2.5	3,750

The Commission estimates that respondents will complete this information collection using in-house staff, equivalent to a GS-13/Step 5 in the Federal GS Salary Schedule for the “Rest of the United States” locality (\$45.86 per hour) plus 30% overhead for a cost of \$59.62 per hour. Therefore: the annualized in-house cost to respondents = 3,750 x \$59.62 = \$223,575

**Total number of respondents: 750 respondents**

**Total annual responses: 1,500 responses**

**Total annual burden hours: 3,750 hours**

**Total annualized in-house cost to respondents: \$223,575**

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. Do not include the cost of any burden hours shown in items 12 and 14.**

FCC projects there will be no cost burden to respondents beyond the cost of burden hours reported in Question 12. FCC has designed this information collection to be completed by respondents’ in-house staff without need for external consultants. The respondents will not need any specialized equipment to complete this information collection. The information being collected is information which the respondents already need to maintain in the normal cost of their business as television broadcasting licensees and as participants in the incentive auction.

**14. Provide estimates of annualized costs to the Federal government.**

FCC will use government staff to review the submissions from respondents, compare the paper forms to the on-line submissions to detect any errors, and store the information for use in disbursing the incentive payments. FCC projects this will require an average of one hour per winning bidder respondent plus one-half hour for each third party payee respondent. Therefore, the projected Federal government work hours are:

1 hour x 500 respondents + 0.5 hours x 250 respondents = 625 hours

FCC projects that the cost of government work hours will average the salary of a GS-13/Step 5 in the Federal GS Salary Schedule for the Washington DC locality (\$50.04 per hour) plus 30% overhead for a cost of \$65.05 per hour. Therefore:

the annualized cost to the Federal government = 625 hours x \$65.05 = \$40,656.25

FCC does not project any other costs to conduct this information collection.

**15. Explain the reasons for any program changes or adjustments reported.**

This is a new information collection, resulting in a program change/increase of 750 respondents, 1,500 responses and 3,750 burden hours. These estimates will be added to OMB's Active Inventory.

**16. For collections of information whose results will be published, outline plans for tabulation and publication.**

FCC does not plan to publish the results of this information collection.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason that a display would be inappropriate.**

The Commission seeks approval to not display the OMB expiration date on FCC Form 1875. Also, the Commission will use an edition date in lieu of an expiration date. The FCC publishes a list of all OMB approved information collections in 47 C.F.R. §0.408.

**18. Explain any exceptions to the statement certifying compliance with 5 C.F.R. §1320.9 and the related provisions of 5 C.F.R. § 1320.8(b)(3).**

There are no exceptions to the Certification Statement.

**B. Collections of Information Employing Statistical Methods:**

This information collection does not employ statistical methods.