

## **SUPPORTING STATEMENT**

### **A. Justification:**

1. The Commission auctions mutually exclusive applications<sup>1</sup> for full power commercial AM and FM radio, full power digital television services, Instructional Television Fixed Services (ITFS),<sup>2</sup> commercial FM translators, and all low power television services (*e.g.*, low power television (LPTV), TV translators, and Class A television). We require the use of the FCC Form 175 (OMB Control Number 3060-0600) to participate in all broadcast auctions.<sup>3</sup> Applicants are also required to submit certain exhibits which are covered in this information collection as discussed below.

To facilitate the identification of groups of mutually exclusive applicants for non-table services, which include the AM radio, LPTV, Class A television, and TV/FM translator services, we require applicants to also submit the engineering portions of the pertinent long-form application (FCC Form 301 (OMB Control Number 3060-0027), FCC Form 349 (OMB Control Number 3060-0405), FCC Form 2100, Schedule A (OMB Control Number 3060-0027), and FCC Form 2100, Schedule C (OMB Control Number 3060-0016)) that are necessary to determine mutual exclusivity.<sup>4</sup> In instances where broadcast licensees file major modification applications during auction filing windows, we require that such applicants also file the engineering data. These applicants are required to file the electronic versions of FCC Forms 301, 349, or 2100, Schedules A or C, as appropriate.<sup>5</sup>

Supplemental engineering data is unnecessary for tabled service applicants (FM and full power TV). Tabled service applicants need only file the FCC Form 175, and select the vacant allotments<sup>6</sup> on which they wish to bid, as specified in the FCC public notice announcing the

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<sup>1</sup> Mutually exclusive applications are those that either cause or receive prohibited contour overlap with other window-filed applications, thus preventing grant of more than one application.

<sup>2</sup> ITFS is a point-to-point or point-to-multipoint microwave service whose channels are allocated to educational organizations and are used primarily for the transmission of instructional, cultural, or other types of educational material. 47 CFR Section 74.931.

<sup>3</sup> The Balanced Budget Act of 1997 expanded the Commission's auction authority under Section 309(j) of the Communications Act of 1934, by adding provisions governing auctions for broadcast services.

<sup>4</sup> *Id.* Applications to participate in an auction are filed during Commission-designated filing windows.

<sup>5</sup> The Commission implemented a new on-line (electronic) television licensing system called "Licensing and Management System" (LMS) in which certain FCC television licensing forms, including FCC Forms 301 and 346, have been combined into a single common form - FCC Form 2100. The questions pertinent only to FCC Form 301 television applicants are now contained in Schedule A and those pertinent only to former FCC Form 346 television applicants are now contained in Schedule C. FCC Form 346 no longer exists, while FCC Form 301 is currently used only by radio applicants.

<sup>6</sup> Vacant allotments refer to channels assigned to the Table of Allotments, 47 CFR Sections 73.202(b) and 73.622(i), designated for use in the indicated communities.

opening of an auction filing window. Applications specifying the same vacant allotment are mutually exclusive, and therefore no supplemental engineering data is necessary to make this determination. However, applicants for the FM service can include a set of preferred site coordinates on the FCC Form 175 as an alternative to the reference coordinates for the vacant FM allotment on which they intend to bid. Applicants are not required to submit these coordinates. However, if applicants choose to supplement the FCC Form 175, the preferred site coordinates will be protected at that site from subsequently filed applications. The Commission will issue a public notice announcing those applications that are not mutually exclusive and the date for filing the appropriate long-form application.

To enhance participation by small businesses and other designated entities, including small businesses owned by women and minority group members, we utilize a tiered new entrant bidding credit<sup>7</sup> for entities with either no, or less than four, other media interests. Applicants who claim the new entrant bidding credit are required to demonstrate eligibility for this designated entity status and disclose the applicant's other media of mass communication.<sup>8</sup>

Each applicant must also fully disclose the real party or parties in interest and ownership structure of the bidding entity in accordance with 47 CFR § 1.2112. If applicable, the applicant is required to identify the parties involved in any bidding consortia or joint bidding agreements.

**History:**

On December 18, 2007, the Commission adopted a Report and Order and Third Further Notice of Proposed Rulemaking (*Diversity Order*), FCC 07-217, in MB Docket Nos. 07-294; 06-121; 02-277; 04-228, MM Docket Nos. 01-235; 01-317; 00-244, which expands opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority and women-owned businesses.

Currently, the media interests held by an individual or company with an equity and/or debt interest in an auction applicant are attributed to that applicant, for purposes of determining its eligibility for the new entrant bidding credit, if the equity and debt interests exceed 33 percent of the total asset value of the applicant. In order to make it easier for small businesses and new entrants to acquire broadcast licenses, and acquire the capital to compete in the marketplace with better financed companies, in the *Diversity Order* we relaxed the rule standard, so to allow for higher investment opportunities in entities meeting the definition of “eligible entities.” An “eligible entity” is defined as an entity that would qualify as a small business consistent with the

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<sup>7</sup> A bidding credit is a percentage discount applied to the high bid if the bidder meets criteria established in the broadcast auction rules.

<sup>8</sup> As defined by 47 CFR Section 73.5008(b), a medium of mass communications means a daily newspaper; a cable television system; or a license or a construction permit for a television broadcast station, an AM or FM broadcast station, a direct broadcast satellite transponder or a multipoint distribution service station.

Small Business Administration (SBA) standards for its industry grouping, based on revenue.<sup>9</sup>

Pursuant to the *Diversity Order*, we allowed the holder of an equity or debt interest in the applicant to exceed the above-noted 33 percent threshold without triggering attribution provided: (1) the combined equity or debt in the “eligible entity” is less than 50 percent, or (2) the total debt in the “eligible entity” does not exceed 80 percent and the interest holder does not hold any option to acquire an additional interest in the “eligible entity.”

The Commission is requesting an extension of this information collection in order to receive the full three-year approval/clearance from the Office of Management and Budget (OMB).

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

Statutory authority for this collection of information is contained in Sections 154(i) and 309 of the Communications Act of 1934, as amended.

**2. Agency Use of Information.** Ownership information is designed to ensure that applicants are qualified to participate in Commission auctions and to ensure that winning bidders are entitled to receive the new entrant bidding credit, if applicable. Joint bidding agreement information is designed to prevent collusion. Submission of engineering data for non-table services enables us to determine which applications are mutually exclusive and thus subject to auction.

**3. Consideration Given to Information Technology.** These information collections will be filed as exhibits to the FCC Form 175 (OMB Control Number 3060-0600) prior to the beginning of the auction. Auction participants will file the FCC Form 175 and exhibits electronically. We have developed an electronic filing system for broadcast auction applications based on the data and other information contained in the forms.

**4. Effort to Identify Duplication and Use Similar Information.** This agency does not impose a similar information collection on the respondents. There is no similar data available.

**5. Effort to Reduce Small Business Burden.** In conformance with the Paperwork Reduction Act of 1995, we are making an effort to minimize the burden on all respondents. We have limited the information requirements to that which is absolutely necessary for evaluating and processing the application and to deter possible abuses of the processes. Therefore, this information collection does not have a significant economic impact on a substantial number of

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<sup>9</sup> At present, the SBA defines as a “small business” a television broadcasting station or radio broadcast entity that has no more than \$38.5 million in annual receipts.

small entities/businesses.

**6. Less Frequent Data Collection.** The respondents will determine whether to participate in competitive bidding. The frequency for this collection of information is determined by respondents, as necessary.

**7. Information Collection Circumstances.** This collection of information is consistent with the guidelines in 5 CFR Section 1320.5(d)(2).

**8. Consultations with Persons Outside the FCC.** Opportunity for public comment on this information collection requirement has been published in the Federal Register at (82 FR 20337) on May 1, 2017.

**9. Payment or Gift.** No payment or gift was provided to respondents.

**10. Confidentiality of Information.** There is no need for confidentiality with this collection of information.

**11. Justification for Sensitive Questions.** This information collection does not address any private matters of a sensitive nature.

**12. Estimate of Burden and Burden Hour Cost.** The following estimates are provided for public burden:

<u>Service</u>	<u>Annual Number of Responses</u>	<u>Respondent's Burden Hrs.</u>	<u>Total Annual Burden Hrs.</u>	<u>Hrly. In-House Cost</u>	<u>Total In-House Cost</u>
Ownership Information Exhibits	2,000	0.5 hours	1,000 hr.	\$48.08	\$ 48,080.00
New Entrant Bidding Credit Exhibits	1,000	1.0 hour	1,000 hr.	\$48.08	\$ 48,080.00
Bidding Consortia Exhibits	25	0.5 hours	12.5 hrs.	\$48.08	\$ 601.00
Engineering Exhibits					
FM Site Coordinates	25	2 hours	50 hrs.	\$48.08	\$ 2,404.00
AM Engineering	300	2 hours	600 hrs.	\$48.08	\$ 28,848.00
FM Trans. Engineering	<u>2,000</u>	2 hours	<u>4,000 hrs.</u>	\$48.08	<u>\$192,320.00</u>
<b>Totals:</b>	<b>5,350</b>		<b>6662.5 hrs.</b>		<b>\$320,333.00</b>
	<b>(responses)</b>		<b>(Burden)</b>		

**OMB Control Number: 3060-0896**  
**Title: Broadcast Auction Form Exhibits**

**July 2017**

**Total Annual Number of Respondents: 2,000 Applicants**

**Total Number of Responses: 5,350 Exhibits**

**Total Annual Burden Hours: 6663 hrs. (rounded)**

**Total Annual “In-house” Cost: \$320,333.00**

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

**13. Annual Cost Burden.** We expect the respondents will contract with consulting engineers (\$250/hour) and attorneys (\$300/hour) to complete their exhibit applications.

<b><u>Service</u></b>	<b><u>Annual Number of Responses</u></b>	<b><u>Consultant's Burden Hrs.</u></b>	<b><u>Annual Consultant's Burden Hrs.</u></b>	<b><u>Hrly. Cost</u></b>	<b><u>Total Cost</u></b>
Ownership Information Exhibits	2,000	0.5 hours	1,000 hr.	\$300	\$ 300,000
New Entrant Bidding Credit Exhibits	1,000	1.0 hour	1,000 hr.	\$300	\$ 300,000
Bidding Consortia Exhibits	25	0.5 hours	12.5 hrs.	\$300	\$ 3,750
Engineering Exhibits					
FM Site Coordinates	25	1 hour	25 hrs.	\$300	\$ 7,500
FM Site Coordinates	25	69 hours	1,725 hrs.	\$250	\$ 431,250
AM Engineering	300	1 hour	300 hrs.	\$300	\$ 90,000
AM Engineering	300	88 hours	26,400 hrs.	\$250	\$6,600,000
FM Trans. Engineering	2,000	1 hour	2,000 hrs.	\$300	\$ 600,000
FM Trans. Engineering	2,000	8 hours	16,000 hrs.	\$250	<u>\$4,000,000</u>
<b>Totals Annual Cost Burden:</b>					<b>\$12,332,500</b>

**14. Cost to the Federal Government.** The Commission will use professionals at the GS-14 level step 5 (\$60.83 hour) to process these exhibits.

<u>Service</u>	<u>Annual Number of Responses</u>	<u>Federal Gov't Burden Hrs.</u>	<u>Total Annual Burden Hrs.</u>	<u>Hrly. Cost</u>	<u>Total Cost</u>
Ownership Information Exhibits	2,000	1 hour	2,000 hrs.	\$60.83	\$121,660.00
New Entrant Bidding Credit Exhibits	1,000	1 hour	1,000 hr.	\$60.83	\$ 60,830.00
Bidding Consortia Exhibits	25	1 hour	25 hrs.	\$60.83	\$ 1,520.75
Engineering Exhibits					
FM Site Coordinates	25	0.5 hours	12.5 hrs.	\$60.83	\$ 760.38
AM Engineering	300	0.5 hours	150 hrs.	\$60.83	\$ 9,124.50
FM Trans Engineering	2,000	0.5 hours	1,000 hrs.	\$60.83	<u>\$ 60,830.00</u>
<b>Totals Cost:</b>					<b>\$254,725.63</b>

**15. Reason for Changes in Burden or Cost.** The Commission has the following adjustments to this collection which are due to decreased to our previously approved figures: -1,000 to the number of respondents, -2,255 to the annual number of responses, -1,965 to the annual burden hours and \$4,403,250 to the annual cost.

There are no program changes to this collection.

**16. Plans for Publication.** The data will not be published.

**17. Display of OMB Approval Date.** OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

**18. Exceptions to the Certification Statement.** There are no exceptions to the Certification Statement.

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

This information collection does not employ any statistical methods.