

October 6, 2021

FEDERAL COMMUNICATIONS COMMISSION

OMB Control Numbers: 3060-0800 and 3060-1058

FCC Forms: 603 and 608

Requested Action: Non-substantive change/non-material change request

The Federal Communications Commission submits this non-substantive change request to the Office of Management and Budget (OMB) for approval of non-substantive/non-material changes to FCC Forms 603 (OMB Control Number 3060-0800) and 608 (OMB Control Number 3060-1058). FCC Form 603 is used to apply for an assignment of authorization or transfer of control, as well as to notify the Commission of consummation of an assignment or transfer of wireless licenses to which the Commission has previously consented or for which notification but not prior consent is required. FCC Form 603 is composed of a main form that contains administrative information and a series of schedules used for filing technical information. FCC Form 608 is used to provide notification or request approval for any spectrum leasing arrangement entered into between an existing licensee in certain Wireless and/or Public Safety Radio Services and a spectrum lessee. Form 608 is also used to notify or request approval for any spectrum subleasing arrangement. FCC Form 608 is composed of a main form that contains administrative information and a series of schedules used for filing technical information.

An assignee, transferee, or lessee (the “applicant”) of a license that was awarded with bidding credits within the last five years must demonstrate that the applicant is also eligible for the same bidding credits, or unjust enrichment or other restrictions may apply. In such an instance, the assignee or transferee applicant must submit FCC Form 603 Main Form and Schedule A to seek approval for the assignment or transfer; the lessee applicant must submit FCC Form 608 Main Form and Schedule A to seek approval for the spectrum leasing arrangement. The applicant must disclose on the applicable Schedule A of FCC Form 603 or FCC Form 608 gross revenue information for the applicant, its Disclosable Interest Holders (DIHs), and its affiliates.

To date, where an applicant sought the assignment, transfer, or lease of a license that was awarded with bidding credits, the applicant has been required to disclose on Schedule A of FCC Form 603 or FCC Form 608 gross revenues for itself, its DIHs, and its affiliates for each of the preceding three years. However, in December 2018, Congress revised the standard set out in the Small Business Act for categorizing a business concern as a “small business concern” by providing as a general matter that a Federal agency cannot propose to categorize a business concern as a “small business concern” for Small Business Act purposes unless the size of the concern is based on its annual average gross receipts “over a period of not less than 5 years.” See 15 U.S.C. § 632(a)(2)(C)(ii)(II), amended by Small Business Runway Extension Act of 2018, Pub. L. 115-324, 132 Stat. 4444 (2018). In December 2019, the Small Business Administration (SBA) adopted new rules implementing the requirements of the Small Business Runway Extension Act and modifying its method for calculation of average annual receipts used to prescribe size standards for small businesses from a three-year to a five-year average period. See Small Business Administration, Small Business Size Standards: Calculation of Annual Average Receipts, 84 Fed. Reg. 66561 (Dec. 5, 2019). Consistent with this statutory requirement and the SBA’s new rules, in future licensing of wireless licenses in services for which the Commission adopted small business definitions after the December 2018 legislation, a winning bidder in a wireless auction who applies for an initial license authorization (via a Form 601) and requests a “small business bidding credit” will be required to disclose gross revenue information for itself, its DIHs, and its affiliates for each of the previous five years and to indicate whether it used audited or unaudited financial statements. And concomitantly an assignee, transferee, or lessee of a license that was previously awarded with a small business bidding credit will be required to disclose gross revenue information for the applicant, its DIHs,

and its affiliates for each of the previous five years and to indicate whether it used audited or unaudited financial statements.

Consistent with this statutory requirement and the SBA's new rules, the Commission is currently working to modify Forms 603 and 608 to accommodate the collection from an applicant seeking the assignment, transfer, or lease of a license that was awarded with a "small business bidding credit" of the gross revenue information for the applicant, its DIHs, and its affiliates for either the preceding three years or the preceding five years, based on the small business definitions in the Commission's service-specific rules applicable for a given auction.¹ However, in the interim, for any applicant seeking the assignment, transfer, or lease of a license that was awarded with a "small business bidding credit" and for which the service-specific rules for that license require the disclosure of gross revenue information for the applicant, its DIHs, and its affiliates for each of the previous five years, and to indicate whether it used audited or unaudited financial statements, the Commission will collect this information for the three most recent years in the FCC Forms 603 and 608 fields and will collect this information for the fourth and fifth most recent years in an attachment to the FCC Forms 603 and 608, as applicable.

The Commission will submit screenshots of the new/additional screens of FCC Forms 603 and 608 to OMB once the required modifications to FCC Forms 603 and 608 described above have been completed.

There is no change to the estimated burden hours or costs to respondents associated with this non-substantive change. Similarly, there is no change to Commission's estimated burden hours or costs associated with this non-substantive change.

¹ In August 2020, OMB approved a non-substantive change request concerning the modification of the Commission's pre-auction application form – FCC Form 175 – to accommodate the collection of gross revenues for either the preceding three years or the preceding five years, based on the small business definitions in the Commission's service-specific rules applicable for a given auction. *See* OMB Control No. 3060-0600. In February 2021, the FCC similarly received OMB's approval for a non-substantive change to its radio service authorization form – FCC Form 601 – to accommodate the collection of the same gross revenue information (three or five of the preceding years) from a license applicant requesting a "small business bidding credit," based on the small business definitions in the FCC's service-specific rules applicable for a given service. *See* OMB Control No. 3060-0798.