



PUBLIC NOTICE

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Media Bureau Seeks Comment on Draft TV Broadcaster Relocation Fund Reimbursement Form

GN Docket No. 12-268

Comments Due: October 27, 2014

By this Public Notice, the Media Bureau seeks comment on a draft TV Broadcaster Relocation Fund Reimbursement Form (“Reimbursement Form”), which broadcasters and MVPDs will use to submit:

- information needed to establish an account with the Department of Treasury for payment purposes;
- an estimate of their eligible relocation costs;
- actual cost documentation throughout the construction period, as they incur expenses; and
- their total expenses incurred.¹

The Commission is committed to ensuring the fairness, efficiency, and transparency of the process for reimbursing broadcasters for relocation costs related to the Incentive Auction, and the associated costs of MVPDs. To that end, we are providing broadcasters, MVPDs, and other stakeholders with the opportunity to comment on our design and implementation of this process. Today’s release of a draft Reimbursement Form (Attachment A) and instructions (Attachment B) well in advance of the commencement of the Incentive Auction is an important first step in this process. To facilitate data submission and expedite processing, broadcasters and MVPDs will submit the Reimbursement Form electronically. The draft released today is a representation of the data fields to be included in the electronic form and illustrates the information to be collected. The comments we receive will assist us in designing a form that facilitates the reimbursement process for all parties, while also ensuring that we are efficient stewards of limited reimbursement funds, and guarding against waste, fraud, and abuse. In an effort to benefit from advance input, we are seeking comment prior to our submission of the Reimbursement Form collection to the Office of Management and Budget (“OMB”). The public

¹ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, GN Docket 12-268, Report and Order, 29 FCC Rcd 6567, 6820, ¶619 (2014) (“*Incentive Auction Order*”).

will have additional opportunity to comment on this data collection, as required by the Paperwork Reduction Act of 1995, after it is submitted to OMB.²

The Spectrum Act³ establishes a \$1.75 billion TV Broadcaster Relocation Fund (“Fund”) to be used for reimbursement of eligible relocation costs.⁴ In the *Incentive Auction Order*, the Commission established a process to provide reimbursement from the Fund to broadcasters that incur expenses associated with moving to post-auction channel reassignments and MVPDs that incur expenses associated with continuing to carry the signal of relocated broadcasters (together, “eligible entities”).⁵ Consistent with the process set out in the *Incentive Auction Order*, eligible entities will file the Reimbursement Form no later than three months following release of the *Channel Reassignment Public Notice*,⁶ at which time they will submit their overall estimate of the cost of completing their transition.⁷ At that time, eligible entities will indicate whether they plan to modify current equipment or purchase new equipment and will identify the existing equipment that must be modified or replaced. The Commission’s reimbursement process provides for an initial allocation of funds based on broadcasters’ and MVPDs’ estimated costs.⁸ Prior to the deadline for filing cost estimates, eligible entities will need to establish a U.S.

² Paperwork Reduction Act of 1995, 44 U.S.C. §§3501-3520.

³ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012) (Spectrum Act).

⁴ *Id.* at § 6403(d)(1); 47 U.S.C. § 309(j)(8)(G)(iii)(I). The Spectrum Act requires that the Commission “reimburse costs reasonably incurred by” broadcast television licensees that are involuntarily reassigned to new channels as a result of the repacking process. Spectrum Act § 6403(b)(4)(A)(i). In addition, the Spectrum Act requires the Commission to reimburse MVPDs that reasonably incur costs in order to continue to carry the signals of licensees reassigned to new channels as a result of the repacking process. *Id.* at § 6403(b)(4)(A)(ii).

⁵ *Incentive Auction Order*, 29 FCC Rcd at 6815-6820, ¶¶605-619.

⁶ *Incentive Auction Order*, 29 FCC Rcd at 6817, ¶610. The *Channel Reassignment Public Notice* will identify new channel assignments for full power and Class A television stations that have been reassigned to different channels. *Incentive Auction Order*, 29 FCC Rcd at 6782, ¶525. The issuance of that public notice will initiate the 39-month transition period.

⁷ The Reimbursement Form will incorporate a Catalog of Eligible Expenses, which will make it easier for those completing the form to identify and report the specific types of equipment they are purchasing, and will facilitate the calculation of cost estimates by providing a baseline cost for commonly purchased equipment and services. The Media Bureau sought comment the Catalog of Eligible Expenses and estimated costs and will release a final version prior to the auction. *See Media Bureau Seeks Comment on Catalog of Eligible Expenses and Other Issues Related to the Reimbursement of Broadcaster Channel Reassignment Costs*, GN Docket No. 12-268, Public Notice, 28 FCC Rcd 13787 (2013); *Media Bureau Seeks Comment on Widelity Report and Catalog of Potential Expenses and Estimated Costs*, GN Docket No. 12-268, Public Notice, 29 FCC Rcd 2989 (2013).

⁸ *Incentive Auction Order*, 29 FCC Rcd at 6815-6819, ¶¶607 & 609-615. Eligible entities will receive an initial allocation of up to 80% (up to 90% for non-commercial broadcast stations) of the estimate they submit on the Reimbursement Form. The amount available for initial allocation depends on the total amount of repacking expenses reported on the Reimbursement Form and the amount legally available for obligation by the Commission. *Id.* at 6819, ¶615. The initial allocation may be made in tranches. *Id.* Entities will also be able to request a subsequent allocation, if necessary. *Id.* at 6818, ¶614.

Treasury account for receiving payment from the Fund.⁹ Submitting this information via the Reimbursement Form before the deadline for filing estimated costs will allow entities to start the process of establishing an account well before they receive their initial allocation of funds.

Once an initial amount is allocated for each entity, and eligible entities begin purchasing equipment and services, they will submit an updated Reimbursement Form along with cost documentation (such as an invoice or receipt) demonstrating their actual costs each time they seek reimbursement for an expense against their allocation.¹⁰ This process will allow entities to use federal funds to pay their expenses as they are incurred.¹¹ Finally, all entities that receive an allocation must submit a final Reimbursement Form showing their total expenses upon completing construction or by a specific deadline prior to the end of the three-year reimbursement period¹² to be announced by the Media Bureau, whichever is earlier.¹³ Some stations with longer construction periods and some MVPDs might still have outstanding expenses by that deadline; these entities must provide a final accounting of expenses on the Reimbursement Form upon completing the transition, even if this occurs after the end of the reimbursement period.¹⁴ Importantly, not all sections of the Reimbursement Form will have to be completed at each phase. Rather, eligible entities need complete and submit only the relevant section of the form as they proceed through each phase of the reimbursement process.

As contemplated by the *Incentive Auction Order*, the Media Bureau will make public the amounts distributed from the Reimbursement Fund to each broadcaster and MVPD.¹⁵ However, we seek specific comment on whether any of the other data submitted on the Reimbursement Form should be considered confidential or not subject to public disclosure. Although the *Incentive Auction Order* states that entities can submit a request for confidential treatment of data submitted on the Reimbursement Form pursuant to § 0.459 of the Commission's rules,¹⁶ we seek comment on whether the Media Bureau should automatically treat certain specific information provided on the Reimbursement Form as confidential. If so, we invite parties to specify which information fields should be deemed confidential and which provision of the Commission's rules permits such a blanket non-disclosure presumption.

⁹ Payments from the Fund will be disbursed via the Treasury Department's Automated Standard Application for Payments ("ASAP") system.

¹⁰ *Incentive Auction Order* at 6816-6817, ¶609. The form and supporting cost documentation will be filed electronically with the Commission. We note that certain background information (e.g., call sign, community of license, Nielson DMA and network affiliation) about the filing entity may be prepopulated on the Reimbursement Form from existing Commission databases, as appropriate.

¹¹ *Id.*

¹² *See* Spectrum Act § 6403(b)(4)(D).

¹³ *Incentive Auction Order* at 6819, ¶616.

¹⁴ *Incentive Auction Order* at 6819, ¶617.

¹⁵ *Incentive Auction Order* at 6817, ¶610 n. 1724.

¹⁶ *Id.* (citing 47 CFR § 0.459).

Interested parties may file comments on or before the date indicated on the first page of this document. When filing comments, please reference **GN Docket No. 12-268**.¹⁷

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁸ Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking numbers. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Parties are strongly encouraged to file comments electronically using the Commission's ECFS. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

¹⁷ The *NPRM* in this proceeding included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. § 603, exploring the potential impact of the Commission's proposal on small entities. *NPRM*, 27 FCC Rcd at 12523-44. The matters discussed in this notice do not modify in any way the IRFA we previously issued.

¹⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998).

Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in GN Docket No. 12-268 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. S.W., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the *ex parte* rules.¹⁹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.²⁰ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the rules.²¹

For additional information on this proceeding, contact Pamela Gallant, Pamela.Gallant@fcc.gov, (202- 418-0614) of the Media Bureau, Video Division. Press contact: Janice Wise, Janice.Wise@fcc.gov (202- 418-8165).

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¹⁹ *NPRM*, 27 FCC Rcd at 12494-95, ¶¶ 416-417; *see also* 47 C.F.R. § 1.1200 *et seq.*

²⁰ *See* 47 C.F.R. § 1.1206(b)(2).

²¹ 47 C.F.R. § 1.1206(b).