



# PUBLIC NOTICE

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## MEDIA BUREAU ANNOUNCES INCENTIVE AUCTION ELIGIBLE FACILITIES AND JULY 9, 2015 DEADLINE FOR FILING PRE-AUCTION TECHNICAL CERTIFICATION FORM

By this Notice, the Media Bureau (“Bureau”) announces in the attached Appendix each station facility eligible for protection in the repacking process and for relinquishment in the reverse auction (i.e., “eligible facility”).<sup>1</sup> Additionally, the Bureau announces that any licensee with a station listed in the Appendix must file an FCC Form 2100, Schedule 381 (“Pre-Auction Technical Certification Form” or “Form”), through which it will verify and certify to the accuracy of the authorization and underlying Database Technical Information<sup>2</sup> for each eligible facility by **July 9, 2015**.<sup>3</sup>

### Incentive Auction Eligible Facilities

In the *Incentive Auction R&O*, the Federal Communications Commission (“Commission”) adopted rules and procedures for conducting the broadcast television incentive auction, including rules for determining which full power and Class A television station facilities would be eligible for protection in the repacking process and participation in the reverse auction.<sup>4</sup> The Commission also instructed the Bureau to issue a Public Notice specifying the deadline by which all full power and Class A licensees subject to either discretionary or mandatory protection, with limited exception,<sup>5</sup> must either be licensed or

<sup>1</sup> See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6651, para. 183 and n. 615 (2014) (“*Incentive Auction R&O*”) (delegating authority to the Bureau to issue a Public Notice, prior to the incentive auction, announcing each station’s eligible facility).

<sup>2</sup> “Database Technical Information” means all underlying technical data that sets forth the operational parameters of the facility, including but not limited to the technical information that may be found in the Commission’s Consolidated Database System (as well as the successor Licensing Management System) and Antenna Registration System. Accordingly, when a licensee certifies on the Pre-Auction Technical Certification Form to the accuracy of underlying Database Technical Information for an eligible facility, it must review all technical information on file with the Commission related to that eligible facility. When making its certification a licensee should not limit its review solely to the information provided for each eligible facility in the Appendix.

<sup>3</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6651, n. 615 (delegating authority to the Bureau to develop and announce a deadline for filing a form for broadcasters to certify to the accuracy of Database Technical Information on file with the Commission).

<sup>4</sup> *Id.* at 6652-53, paras. 185-86 (mandatory protection); *id.* at 6655-63, paras. 194-218 (discretionary protection). See also Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act).

<sup>5</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6651, n.615. Licensees affected by the destruction of the World Trade Center were able to elect to protect either their licensed Empire State Building facility or a proposed new facility at One World Trade Center so long as that new facility was applied for and authorized in a construction permit granted by the Pre-Auction Licensing Deadline. *Id.* at 6665-66, paras. 219-20. As required, affected licensees filed a letter

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have an application for a license to cover the construction permit on file (FCC Form 2100, Schedules B or F/FCC Forms 302 or 302-CA) in order to qualify as an eligible facility.<sup>6</sup> Pursuant to that authority, the Bureau designated May 29, 2015 as the Pre-Auction Licensing Deadline.<sup>7</sup>

While the attached Appendix is intended to represent a complete list of all Class A and full power station facilities eligible for protection in the repacking process and relinquishment in the reverse auction,<sup>8</sup> if a licensee believes that the Appendix omits an eligible facility, it should file with the Commission a “Petition for Eligible Entity Status” by **July 9, 2015**.<sup>9</sup> The petitioner must explain the reason it believes the facility is eligible consistent with the *Incentive Auction R&O* (e.g., the facility was subject to mandatory or discretionary protection). The Bureau will process petitions in an expeditious manner and inform the petitioner of its decision well in advance of the reverse auction. All petitions must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission, and to the attention of Barbara A. Kreisman, Chief, Video Division, Media Bureau, Room 2-A666.<sup>10</sup> An electronic copy should also be sent to Barbara Kreisman at [Barbara.Kreisman@fcc.gov](mailto:Barbara.Kreisman@fcc.gov) and to Evan Morris at [Evan.Morris@fcc.gov](mailto:Evan.Morris@fcc.gov).

### **Pre-Auction Technical Certification Form Deadline**

To ensure a stable and accurate database, and to facilitate the repacking process, the *Incentive*

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with the Commission making their election. *Id.* at 6665, n. 690; *PALD PN*, 30 FCC Rcd at 394 and n. 8. Each licensee’s election is reflected in the attached Appendix.

<sup>6</sup> *Id.* at 6656, para. 195 and n. 646.

<sup>7</sup> *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline*, Public Notice, 30 FCC Rcd 393 (MB 2015)(“*PALD PN*”); *see also Media Bureau Reminds Full Power and Class A Licensees of the Approaching May 29, 2015 Pre-Auction Licensing Deadline*, Public Notice, DA 15-580 (MB 2015)(“*PALD Reminder PN*”). While Class A licensees may wait until the September 1, 2015 digital transition deadline to complete construction and license their digital facility, those that did not either have a license for their digital facility or file an application to license their facility by May 29, 2015 will be afforded protection in the repacking process based on the coverage area and population served by their licensed analog facility, consistent with the policy adopted in the *Incentive Auction R&O*. *Incentive Auction R&O*, 29 FCC Rcd at 6664-65, para. 218 and n. 688. Additionally, Class A television stations are reminded that they must cease all analog operations, including any analog companion channels, by the September 1, 2015 transition date. *See* 47 CFR § 74.731(l) (“After 11:59 pm local time on September 1, 2015...Class A television stations may no longer operate any facility in analog (NTSC) mode”).

<sup>8</sup> Regardless of whether a station is listed in the Appendix, the *Incentive Auction R&O* prohibits a station from being protected in the repacking process or participating in the reverse auction if its license has expired, is subject to a revocation order (collectively a “license validity proceeding”), or is for a Class A station that is subject to a downgrade order, provided that the license validity proceeding or Class A downgrade order has become final and non-reviewable by a date prior to commencement of the auction that will be specified in the *Procedures PN*. *Incentive Auction R&O*, 29 FCC Rcd at 6722, para. 363.

<sup>9</sup> The petition must request that the facility be designated an eligible facility, and the caption should include the name of the licensee, station’s call sign, station’s community of license (city and state), facility identification number, channel number, and file number for the authorization the licensee believes should be eligible.

<sup>10</sup> 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. The filing hours 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. 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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

*Auction R&O* specified that the Commission would require all full power and Class A television stations to verify and certify to the accuracy of the information contained in the Commission's databases with respect to their protected facilities.<sup>11</sup> The *R&O* directed the Bureau to develop a form and announce by Public Notice the deadline and procedures for filing the form.<sup>12</sup> Accordingly, the Bureau announces that licensees listed in the Appendix have until **July 9, 2015**, to file, through the Commission's Licensing Management System (LMS), a Pre-Auction Technical Certification Form (FCC Form 2100, Schedule 381).

The Pre-Auction Technical Certification Form includes two questions. The first question requires licensees to certify that they have reviewed the authorization for each eligible facility listed in the Appendix and to indicate whether the underlying Database Technical Information for their eligible facility is correct. A licensee must make one of the following certifications:

- (a) the authorization for the eligible facility and all underlying Database Technical Information is accurate and complete, to the best of the licensee's knowledge;
- (b) the authorization for the eligible facility is inaccurate because of a discrepancy between the authorization and the underlying Database Technical Information on file with the Commission; or
- (c) the eligible facility has been operating with parameters at variance from those specified in its authorization and the Database Technical Information.<sup>13</sup>

The second question requires licensees to provide additional information concerning their eligible facility, including information regarding the eligible facility's transmitter, antenna, and antenna support structure.<sup>14</sup> The Commission will use this information to help facilitate the repacking process.

Licensees must file a separate Form for each eligible facility listed in the Appendix. If a Pre-Auction Technical Certification Form for an eligible facility is not filed by **July 9, 2015**, we will consider the authorization in the Appendix and the underlying Database Technical Information for that facility as of May 29, 2015 to be accurate for purposes of determining protection in the repacking process and the spectrum usage rights eligible for relinquishment in the reverse auction.

If a licensee certifies in the Form that there is a discrepancy between the authorization and the underlying Database Technical Information on file with the Commission (e.g., the Commission has made an error and the facility authorization listed in the Appendix or underlying Database Technical Information is incorrect), the licensee must attach an exhibit to the Form providing the correct information. The Bureau will review and correct such errors as appropriate. The Bureau will take such corrections into account for purposes of determining protection in the repacking process and the spectrum usage rights eligible for relinquishment in the reverse auction.<sup>15</sup>

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<sup>11</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6651, n. 615 (ensuring a stable, accurate database to facilitate the repack by requiring broadcasters to verify and certify to the accuracy of information related to their eligible facility); *id.* at 6656, para. 195 and n. 646 (concluding that the establishment of a Pre-Auction Licensing Deadline is needed to ensure a "largely static view of facilities that will be protected in the repacking process").

<sup>12</sup> *Id.* at 6651, n. 615.

<sup>13</sup> Pre-Auction Technical Certification Form, FCC Form 2100, Schedule 381 at Question 1.

<sup>14</sup> Pre-Auction Technical Certification Form, FCC Form 2100, Schedule 381 at Question 2.

<sup>15</sup> *PALD Reminder PN*, DA 15-580 at p. 3.

In the alternative, if a licensee certifies in the Form that its eligible facility has been operating with parameters at variance from those specified in the authorization listed in the Appendix and the underlying Database Technical Information, the licensee must either revise its operations to reflect the licensed parameters or file an application for modification of its facility (FCC Form 2100, Schedules A or E) and seek a Special Temporary Authorization to allow it to continue to operate with parameters at variance pending grant of its modified license.<sup>16</sup> However, consistent with our objective of a stable and accurate database to facilitate the repacking process,<sup>17</sup> we will rely on the operating parameters as specified in the authorization listed in the Appendix and the underlying Database Technical Information. Modifications occasioned by a licensee's operating at variance from those parameters, even if granted and ultimately licensed, will not be taken into account for purposes of determining protection in the repacking process and the spectrum usage rights eligible for relinquishment in the reverse auction.<sup>18</sup>

In the *Incentive Auction R&O*, the Commission directed the Office of Engineering and Technology (OET) to release a detailed summary of baseline coverage area and population served by each television station to be protected in the repacking process.<sup>19</sup> The final baseline released by OET will contain the final list of eligible stations based on corrections to eligible facilities resulting from their certification in the Pre-Auction Technical Certification Form and any granted Petitions for Eligible Entity Status<sup>20</sup> or Petitions for Reconsideration of the *Incentive Auction R&O*.<sup>21</sup>

For additional information on this Public Notice, contact Evan Morris at [Evan.Morris@fcc.gov](mailto:Evan.Morris@fcc.gov) or (202) 418-1656 (legal); Kevin Harding at [Kevin.Harding@fcc.gov](mailto:Kevin.Harding@fcc.gov) or (202) 418-7077 (full power technical/database); or Hossein Hashemzadeh at [Hossein.Hashemzadeh@fcc.gov](mailto:Hossein.Hashemzadeh@fcc.gov) or 202 418-1658 (Class A technical/database), of the Video Division, Media Bureau. Press inquiries should be directed to Janice Wise, (202) 418-8165.

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<sup>16</sup> If an application for modification is filed prior to submitting the Pre-Auction Technical Certification Form, the file number of that application must be provided on the Form.

<sup>17</sup> *Supra* note 11.

<sup>18</sup> *PALD Reminder PN*, DA 15-580 at p. 2; *see also PALD PN*, 30 FCC Rcd at 394 (“modifications will be protected so long as a modification application that complies with the *Freeze PN* is filed and granted, and a license to cover application is filed, by May 29, 2015”).

<sup>19</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6635, para. 145.

<sup>20</sup> If granted, the Bureau will notify the petitioner of the date by which it must file its Pre-Auction Technical Certification Form as part of its decision.

<sup>21</sup> Several parties have filed petitions for reconsideration of the *Incentive Auction R&O* requesting that discretionary protection be extended to facilities not currently protected under the *R&O*. The Commission is currently considering those petitions and the attached Appendix is not intended to pre-judge their outcome. If the Commission grants a petition for reconsideration and extends discretionary protection to a different facility, or a facility that is not currently listed in the Appendix, the licensee must file a Pre-Auction Technical Certification Form for each eligible facility no later than seven (7) days after release of the Commission's decision or by July 9, 2015, whichever is later.