PUBLIC NOTICE

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INVOICE FILING DEADLINES FOR TV BROADCASTER RELOCATION FUND

MB Docket No. 16-306
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1. The Incentive Auction Task Force and Media Bureau (Bureau) announce filing deadlines for eligible entities to submit all remaining invoices and other documentation on FCC Form 2100, Schedule 399 (Reimbursement Form) for reimbursement from the TV Broadcaster Relocation Fund (Reimbursement Fund or Fund). As described below, eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period must submit all remaining invoices for incurred expenses by **October 8, 2021**. The deadline for eligible entities assigned completion dates in the second half of the transition period is **March 22, 2022**. The deadline for all other participants in the reimbursement program is **September 5, 2022**. We establish these deadlines to help ensure that all eligible invoices are processed and that entities are able to complete the Fund close-out procedures prior to July 3, 2023, when any unobligated amounts in the Fund will be rescinded and deposited into the U.S. Treasury. Entities are encouraged to initiate close out procedures as early as possible and we emphasize that they need not wait for their assigned final invoice filing deadline to do so.

Background

2. At the close of the incentive auction and beginning of the post-auction transition period on April 13, 2017, there were 987 full power and Class A stations reassigned (repacked) to new channels.[1] The Commission established a 39-month period running until July 13, 2020, for repacked television stations to transition off of their pre-auction channels.[2] The Commission determined that a phased construction schedule would facilitate efficient use of the resources necessary to complete the transition[3] and adopted the Transition Scheduling Plan (Plan) that assigned each repacked station to one of 10 phases. Each phase had a designated completion date by which stations assigned to that phase were

[1] *Incentive Auction Closing and Channel Reassignment Public Notice; The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (IATF, MB, and WTB 2017) (*Closing and Channel Reassignment PN*). This included 30 band-changing winners from the reverse auction and 957 non-winning and non-participating stations. Band-changing auction winners are not eligible for reimbursement from the Fund.

[2] *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6796, para. 559 (2014), (*Incentive Auction R&O*), *aff'd*, *Nat'l Ass'n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015).

[3] *Incentive Auction R&O*, 29 FCC Rcd at 6801, 6797, paras. 563 and 571.

required to vacate their pre-auction channels.[4] The completion date for Phase 1 was November 8, 2018, and the subsequent phases had subsequent completions dates through the Phase 10 completion date on July 3, 2020. All 987 repacked stations have now vacated their pre-auction channels. As of October 6, 2020, over 92% of the repacked stations are operating on their final facilities. The remaining 76 stations[5] have been granted special temporary authority and revised construction permit deadlines to continue pursuing completion of their final facilities. We are optimistic that these remaining stations will be able to meet their revised deadlines and we will continue to monitor and work with them to ensure the continued success of the post-incentive auction transition.

3. In addition to repacked stations, certain low power TV and TV translator stations (LPTV/translators) were displaced by the rebanding and repacking process. Over 2,000 such stations were granted construction permits in a Special Displacement Window to construct new facilities. Some of the LPTV/translator stations were displaced and completed construction of displacement facilities early in the transition period.[6] Others are still working toward meeting their construction permit deadlines. FM radio spectrum was not subject to repacking, but some FM stations whose antennas are collocated on or near a tower supporting a repacked television station antenna incurred costs due to construction of repacked television facilities. Multichannel video programming distributors (MVPDs) also incurred costs to continue to carry the signal of repacked stations. Some FM stations and MVPDs have already incurred costs and a limited number may incur additional costs as repacked stations complete transition to final facilities.

4. Congress provided $2.75 billion for the Reimbursement Fund in the Spectrum Act and Reimbursement Expansion Act (REA) to reimburse certain costs associated with the post-incentive auction transition and for the Commission to undertake education efforts for over-the-air television

[4] *See Incentive Auction Task Force and Media Bureau Adopt Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 32 FCC Rcd 890 (IATF/MB 2017) (*Transition Scheduling Adoption PN*).

[5] Two of these stations are band-changing stations that are not eligible for reimbursement from the Fund. *See supra* note 1.

[6] *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860 (IATF/MB 2017) (*LPTV Procedures Public Notice*). Pursuant to our rules, LPTV/translator stations that were on channels 38 through 51 must terminate operations if they receive notice of likely interference to a new 600 MHz Band licensee that intends to commence operations or conduct first field application (FFA) testing on their licensed 600 MHz spectrum. *See Incentive Auction R&O*, 29 FCC Rcd at 6839-40, paras. 668-71, and 6840, n.1863. The Commission granted 600 MHz licenses which authorize the licensees to construct facilities on their new spectrum. *See Incentive Auction Task Force and Wireless Telecommunications Bureau Grant 600 MHz Licenses*, Public Notice, 32 FCC Rcd 4832 (2017), 32 FCC Rcd 5684 (2017), 32 FCC Rcd 9280 (2017), 33 FCC Rcd 98 (2018), 33 FCC Rcd 869 (2018), 33 FCC Rcd 6339 (2018), 33 FCC Rcd 7358 (2018), 33 FCC Rcd 11699 (2018), 33 FCC Rcd 11721 (2018). T-Mobile USA (T-Mobile), one of the recipients of those licenses, provided notices to certain LPTV/translator stations that it would commence operations or conduct FFA testing on some of its licensed spectrum before the opening of the Special Displacement Window. *See Incentive Auction Task Force and Media Bureau Set Forth Tools Available to LPTV/Translator Stations Displaced Prior to the Special Displacement Window*, Public Notice, 32 FCC Rcd 4943 (MB/IATF 2017).

viewers.[7] The reimbursement program for full power and Class A TV stations and MVPDs began in 2017 and, pursuant to the REA, was expanded in 2019 to include FM stations and LPTV/translator stations.[8] To date, participants in the Reimbursement Fund include 872 LPTV/translator stations and 89 FM stations in addition to 957 repacked full power and Class A stations. The procedures used to disburse monies from the Fund enable us to timely process reimbursement requests and assure that only eligible expenses are paid and that available funds are spread appropriately across all eligible entities.

5. All entities participating in the reimbursement program were required to file estimates using the Reimbursement Form. The estimates were then reviewed and adjusted for eligibility and reasonableness by Commission staff, who were assisted by a Fund Administrator experienced in television broadcast engineering and federal funds management. Thereafter, each entity received an initial allocation from the Fund based on a percentage of the entity's verified estimates. The total allocation amount was calculated based in part on the total amount of estimated repacking expenses, as well as the amount of money available in the Reimbursement Fund for certain categories of entities. To ensure that reimbursement funds are allocated fairly and consistently, and to have sufficient flexibility to make equitable allocation decisions that maximize the funds available for reimbursement, funds have been allocated in tranches and supplemented via additional allocations. To date, full power, Class A, and FM stations and MVPDs have received allocations of 92.5 percent of each entity's verified estimates and LPTV/translator stations have received allocations of 85 percent of each entity's verified estimates.[9]

6. As participating entities incur expenses, they submit invoices and other supporting documentation reflecting those expenses, again using the Reimbursement Form. The Commission and Fund Administrator review the submissions for reasonableness and eligibility and, if approved, forward them to Treasury for payment. Consistent with our experience in managing the Fund to date, we expect that the number of reimbursement requests will continue to increase over the life of the Fund. We rely on drawdown amounts and submitted estimates, including revisions, to make allocation decisions, and we continue to encourage eligible entities to promptly submit invoices for reimbursement of incurred costs

[7] The Spectrum Act provided $1.75 billion for full power, Class A stations and MVPDs. 47 U.S.C. §§ 1452(b)(4)(A)(i), (ii), 142(d). The REA addressed the Fund's apparent shortfall for full power and Class A stations and the lack of reimbursement funds for other categories of impacted broadcast stations. The REA appropriated a total of $1 billion, including $600 million in fiscal year 2018 and $400 million in fiscal year 2019. *See* 47 U.S.C. § 1452(j)-(n). Of the $600 million appropriated in fiscal year 2018, the Act authorizes the Commission to use "not more than" $350 million to make reimbursements to full power and Class A stations and MVPDs pursuant to the Spectrum Act (47 U.S.C. § 1452(j)(2)(A)(i)), "not more than" $150 million to reimburse LPTV/translator stations, (47 U.S.C. § 1452(j)(2)(A)(ii)), "not more than" $50 million to reimburse FM stations (47 U.S.C. § 1452(j)(2)(A)(iii)), and $50 million for use by the Commission to fund its efforts to educate consumers about the reorganization of the broadcast television spectrum under (47 U.S.C. § 1452(b)). The Commission stated that it will use the $400 million appropriated for fiscal year 2019 first to reimburse full power, Class A, and MVPD entities for any expenses eligible for reimbursement that have not already been reimbursed before using any remaining fiscal year 2019 funds to reimburse LPTV/translator and FM stations for eligible expenses not already reimbursed above the amounts allocated for those purposes by the REA for fiscal year 2018. *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 34 FCC Rcd 1690, 1697-1700, paras 16-20 (2019) (*REA Report & Order*).

[8] *See Closing and Channel Reassignment PN,* 32 FCC Rcd 2786; *REA Report & Order,* 34 FCC Rcd 1690.

[9] *See, e.g.*, *Incentive Auction Task Force and Media Bureau Announce the Initial Reimbursement Allocation for Eligible Broadcasters and MVPDs*, Public Notice, 32 FCC Rcd 7556, 7556-57 (IATF/MB 2017) (*Initial Allocation PN); Incentive Auction Task Force and Media Bureau Announce a Further Reimbursement Allocation for Eligible Broadcasters and MVPDs,* Public Notice, 33 FCC Rcd 3732 (IATF/MB 2018) (*Further Allocation PN*); *Initial Allocation for FM Stations from TV Broadcaster Relocation Fund and Report on the Status of the Post-Incentive Auction Transition, The Reimbursement Program, and the Consumer Education Program*, Public Notice, DA-19-1246 (IATF/MB 2019) (*FM Initial Allocation PN); Initial Allocation for LPTV/translator Stations from the TV Broadcaster Relocation Fund,* Public Notice, 35 FCC Rcd 2913 (IATF/MB 2020).

and to revise their cost estimates, if applicable, based on more refined quotations from vendors and other real-time information. As of September 29, 2020, the total of all verified estimates in the Reimbursement Fund was over $2.177 billion, the total allocation was over $2.016 billion, over $1.323 billion had been forwarded to Treasury for payment, and over $78 million in invoices were at various stages of the review process.

7. On February 11, 2019, we announced procedures for entities to close out their books and accounts in the Reimbursement Fund.[10] These procedures are necessary to bring each entity's participation in the Reimbursement Fund to a close and to help us prevent waste, fraud and abuse associated with the disbursement of federal funds. Because entities are allocated a *pro rata* portion of their total verified estimates, close out is a two-step process consisting of an interim and final close-out procedure. When an entity has submitted all of its invoices and supporting documentation, it must use the Reimbursement Form to notify the Media Bureau.[11] The Fund Administrator then provides the entity with a financial reconciliation statement that details verified estimated amounts; allocated amounts; amounts requested for reimbursement; and amounts disbursed by the Commission. If we discover any overpayments during this procedure, we notify the entity that it must return the excess amount to the Commission.[12] Once the financial reconciliation statement has been reviewed by the station and any necessary changes made, it must file an executed version of the financial reconciliation statement with the Fund Administrator, after which we will issue an interim close-out letter. To date, 8 entities have completed interim close out procedures.

8. After all or nearly all entities eligible for reimbursement from the Fund have entered the close-out process – or at an earlier time when the Media Bureau can reasonably extrapolate that the total available funding will be sufficient to meet the total cost of the program – we may make a final allocation to reimburse the entity for the total amount of remaining incurred expenses. At that time, each entity will enter the final close-out procedures and receive a final close-out letter. That final close-out letter will serve as the official notice of account close-out, include a summary of any financial changes that occurred during the interim closing period, and remind entities of their ongoing document retention requirements.[13] Pursuant to the REA, any unobligated amounts in the Fund as of July 3, 2023, will be rescinded from the Fund and deposited into the Treasury and dedicated for the sole purpose of deficit reduction.[14]

Filing Deadlines for Remaining Invoices

9. The Commission authorized the Media Bureau to set deadlines for final submission to the Reimbursement Fund.[15] Consistent with the Commission's decision to use a phased approach for the Transition Scheduling Plan, we will also utilize a phased approach to set deadlines for filing all remaining reimbursement submissions. This approach recognizes our experience to date that repacked stations with phase assignments earlier in the transition period are more likely to have completed their transition to

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[10] *See Incentive Auction Task Force and Media Bureau Report on the Status of the Post-Incentive Auction Transition and Reimbursement Program; Announce a Further Allocation from the Relocation Fund; and Announce Procedures for Eligible Entities to Close Out Accounts in the Fund*, Public Notice, 34 FCC Rcd 304 (MB/IATF 2019).

[11] *See REA NPRM & Order*, 33 FCC Rcd at 7892-93, para. 93 (the Media Bureau may announce a deadline for the submission of final expense documentation for reimbursement funding that is consistent with the statutory deadline in the REA).

[12] *Incentive Auction R&O*, 29 FCC Rcd at 6815-16, para. 607; *Financial Procedures PN*, 32 FCC Rcd at 2023-25, paras. 70-78.

[13] *Incentive Auction R&O*, 29 FCC Rcd at 6825-26, para. 634 ("each entity must retain all relevant documents … for a period ending 10 years after the date it receives its final payment from the Reimbursement Fund.").

[14] 47 U.S.C. § 1452(j)(1)(A)-(B).

[15] *Id.* at 6815-16, 6819, paras. 607, 616-17.

final facilities than those with more recent phase deadlines and are therefore more likely to have completed all construction and incurred all costs associated with the transition. A phased approach will also sequence our processing work so that the Fund Administrator and Commission staff are not overwhelmed with a deluge of filings at the program's end, which could not only jeopardize the timely completion of the program but also prevent entities from receiving full reimbursement for their expenses. We also recognize that program participants require human capital to complete the close-out process, and we believe the phased approach will lessen the resourcing burden to station groups and other participants who must manage multiple entities in the reimbursement program. We are also aware that MVPDs and FM stations may incur costs toward the end of repacked stations' construction projects. Similarly, we recognize that because LPTV/translator stations do not have transition deadlines in the Transition Scheduling Plan, and some may not yet have received notice from wireless licensees announcing that they intend to commence operations on the LPTV/translator station's pre-auction channel, they may incur expenses toward the end of the program. Because some stations have not yet completed all necessary construction or incurred all costs for all reimbursable work, we are setting all deadlines well in advance. We believe providing this lengthy advance notice will permit all entities more than enough time to finish any remaining work, submit their final invoices, and complete the reimbursement close-out process. The staggered deadlines therefore balance the burden on stations that have remaining work to complete with the need to have all documentation reflecting incurred costs on file in a timely manner that permits the Fund Administrator and Commission staff to fully process all reimbursement requests and complete the interim and final close out procedures prior to the July 3, 2023, deadline set by Congress, at which time unobligated funds must be rescinded to Treasury.

10. *Deadline for Final Submissions from Phases 1-5 Repacked Stations: October 8, 2021.* All repacked stations assigned to Phases 1 through 5,[16] and repacked stations that were granted permission to transition prior to the Phase 1 testing period, must submit all remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures, no later than October 8, 2021. All 510 repacked stations in this group had already satisfied the requirement to vacate their pre-auction channel prior to September 11, 2019. As of October 6, 2020, all but 27 of such stations were operating on their final facilities.

11. *Deadline for Final Submissions from Phases 6-10 Repacked Stations: March 22, 2022.* All repacked stations assigned[17] to Phases 6 through 10, and repacked stations that were granted permission to transition shortly after the end of Phase 10 due to circumstances beyond their control, must submit all remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures, no later than March 22, 2022. With five exceptions, all of which transitioned by September 30, 2020, all 444 repacked stations in this group had satisfied the requirement to transition by July 13, 2020. As of October 6, 2020, all but 47 such stations were operating on their final facilities.

12. *Deadline for Final Submissions from All Other Entities: September 5, 2022.* All MVPDs, FM stations, and LPTV/translator stations participating in the reimbursement program must submit all remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures, no later than September 5, 2022. This group includes 1,140 entities.

13. In light of the fact that the first deadline for final submissions is October 8, 2021 – over a year after the July 13, 2020, statutory end of the transition period and more than a year from this announcement of the deadline – we do not anticipate a need to grant extensions of the assigned submission deadlines. In this regard, we note that expenses are reimbursable when costs are incurred and therefore can be submitted while final construction is underway. However, in the unlikely event that an

[16] A station that was granted permission to change phases is assigned to the deadline associated with its revised phase completion date.

[17] *See supra* note 15.

entity faces circumstances beyond its control, we will consider a limited extension by means of shifting an entity with the first or second deadline assignment to the second or third deadline assignment. An entity requesting such a shift will have to provide evidence that circumstances requiring the extension were outside of its control, such as local zoning or a force majeure event occurring proximate to the final submission deadline. Note that we will not consider the availability of reimbursement for specific purchases a mitigating factor in evaluating extension requests. Furthermore, we advise entities that we will not be able to grant extensions that do not provide the staff with sufficient processing time to complete close-out procedures for all stations. Thus, an entity's failure to complete construction in a timely manner and to make final submissions by the assigned deadlines could preclude that entity from receiving full reimbursement because unobligated amounts in the Fund must be rescinded to Treasury by July 3, 2023.

14. We stress that entities need not wait until their assigned final invoice filing deadline to enter the interim close out process. Indeed, we strongly encourage all entities in the program to initiate interim close out procedures as soon as they have incurred and submitted invoices for all reimbursable costs. Because all repacked stations have vacated their pre-auction channel but only eight have completed interim close-out procedures, we believe that many entities are unnecessarily delaying making final submissions to the program and initiating interim close-out procedures. We note that payments up to the total amount of each entity's allocation are available upon processing of documents reflecting reasonably incurred costs. Furthermore, we will not be able to make a final allocation up to the full amount of verified estimates until all or virtually all invoices for incurred costs are submitted or at such time as we can reasonably extrapolate that the total available funding will be sufficient to meet the total cost of the program.

Audits, Data Validations, and Disbursement Validations

15. The Commission has determined "that audits, data validations, and site visits are essential tools in preventing waste, fraud, and abuse, and that use of these measures will maximize the amount of money available for reimbursement."[18] The Commission also specifically contemplated that a third-party audit firm acting on behalf of the Commission "may conduct audits of entities receiving disbursements from the Reimbursement Fund, and these audits may occur both during and following the three-year Reimbursement Period."[19] The Commission also provided notice that any "[e]ntities receiving money from the Reimbursement Fund must make available all relevant documentation upon request from the Commission or its contractor."[20]

16. The Commission also noted that the Media Bureau or a third-party auditor will continue to validate expenses after the reimbursement period ends and, "where appropriate, recover any money that should be returned, consistent with the Commission's obligation to recover improper payments."[21] We stress that entities eligible for reimbursement may be selected for audits, data validations, and site visits before or after a station has taken all steps necessary to complete its construction project, or during the interim close-out period, or thereafter.

17. We have performed, and intend to continue to perform, disbursement validations in order to confirm that entities receiving reimbursement funding for third party services have in fact disbursed monies received from the Fund in a manner consistent with representations made to the Commission in the Reimbursement Form. Evidence of valid disbursements may consist of copies of cancelled checks, financial institution statements detailing the disbursement, wire or electronic fund transfer confirmations,

[18] *Incentive Auction R&O*, 29 FCC Rcd at 6826, para. 635.

[19] *Id.*

[20] *Id*.

[21] *Id*. at para 636.

credit card statements, or other relevant third-party banking information that affirmatively demonstrates the proper payment of funds to third-party vendors. Not every station may be selected for additional disbursement data validations, but all Fund participants are reminded that they must retain documents for a period ending 10 years after the date they receive their final payments from the Reimbursement Fund.

18. For additional information or questions about the reimbursement process, please call the Reimbursement Help Line at (202) 418-2009, or e-mail Reimburse@fcc.gov.

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