



# PUBLIC NOTICE

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DA 22-191

Released: February 24, 2022

## INCENTIVE AUCTION TASK FORCE AND MEDIA BUREAU REPORT ON STATUS OF THE POST-INCENTIVE AUCTION REIMBURSEMENT PROGRAM, ANNOUNCE FINAL ALLOCATION AND POST-IMPLEMENTATION SITE VISIT VALIDATION PROGRAM, AND REMIND STATIONS OF INVOICE FILING DEADLINES

**MB Docket No. 16-306**  
**GN Docket No. 12-268**

1. The Incentive Auction Task Force and Media Bureau (Bureau) hereby announce a final allocation from the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) to increase the allocation for each participant from 92.5% to 100% of verified estimates. This will aid the Commission's efforts to fully reimburse participants and close reimbursement accounts. We also announce the initiation of a program to visit the facilities of a statistically valid and random sample of Fund participants to validate the existence and operational status of post-transition broadcast equipment for which the entity received reimbursement. The site visit program supports the Commission's responsibility as a prudent steward of taxpayer money to prevent fraud, waste, and abuse associated with the disbursement of federal funds. Finally, we remind all full power and Class A TV stations assigned transition completion dates in phases 6-10 of the Transition Scheduling Plan that they must submit all remaining invoices no later than March 22, 2022.

2. **Status of the Reimbursement Program.** As a result of the Spectrum Act's<sup>1</sup> mandate to reorganize the broadcast television band to make additional spectrum available for wireless use, the Commission conducted the incentive auction and repacking process, which resulted in new channel assignments for 987 full power and Class A stations.<sup>2</sup> All of those stations are now operating on their final, repacked facilities with the exception of 14 that have transitioned to their new channel assignments pursuant to a grant special temporary authority with revised construction permit deadlines to permit them to complete their final facilities. Certain LPTV and TV translator (LPTV/translator) stations were displaced by the rebanding and repacking process and were granted construction permits to relocate their facilities in a special displacement window. Some FM broadcasters that share tower space with repacked TV stations incurred costs to facilitate the repack stations' construction project. And some multichannel video programming distributors (MVPDs) incurred costs to continue to carry the signals of repacked TV stations on new channel assignments.

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<sup>1</sup> 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>2</sup> This included 957 repacked stations eligible for reimbursement and 30 band-changing winners from the reverse auction. See *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 Red 2786 (IATF/MB/WTB 2017) (*Closing and Channel Reassignment PN*).

3. Congress provided \$2.75 billion for the Reimbursement Fund in the Spectrum Act and Reimbursement Expansion Act (REA) to reimburse reasonably incurred costs associated with the post-incentive auction transition.<sup>3</sup> To implement the Reimbursement Fund, we developed procedures that required all participants to submit their estimated costs using the Reimbursement Form.<sup>4</sup> Bureau staff, with the support of a Fund Administrator (a contractor with extensive experience in television broadcast engineering services and federal fund management), reviewed the Reimbursement Forms and the accompanying supporting documentation to verify that entities' estimates reflect costs that satisfy program requirements. An allocation was made to each entity representing a percentage of the entity's verified estimates. Thereafter, those entities drew down the allocation and received reimbursement from the U.S. Treasury as they submitted invoices for eligible expenses that were approved for payment.<sup>5</sup>

4. The Commission has allocated funding in tranches, including an initial allocation sufficient to cover upfront expenditures, and additional allocations periodically throughout the transition period to support the continued progress of construction projects.<sup>6</sup> Currently, all participants in the Reimbursement Fund have been allocated 92.5% of each participant's total verified estimates. Because demand on the Fund was continually increasing during the transition period, holding back a percentage of the total verified estimates was a sound fund management practice that ensured entities did not face an undue financial burden and had funding available for construction, while balancing the need for a consistent and equitable distribution of funds across all Fund participants. Making allocations in more than one tranche acknowledged the reality that estimates and expenditures were refined and changed over time as entities moved forward with planning, provisioning, and constructing. This approach also reduced the likelihood of over-allocating funds that would then have to be reduced or issuing payments that would have to be clawed back. As of February 15, 2022, the total of all verified estimates was over \$2.15 billion, the total allocation was over \$2.07 billion, over \$1.666 billion had been forwarded to Treasury for payment, and about \$34 million in invoices were under review.

5. The Reimbursement Fund utilizes a two-step procedure for entities to close out their books and accounts in the Reimbursement Fund.<sup>7</sup> Because entities are allocated a percentage of their

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<sup>3</sup> 47 U.S.C. §§ 1452(b)(4)(A)(i), (ii), 142(d). The reimbursement program began in 2017 for full power and Class A TV stations and MVPDs with the Spectrum Act's provision of \$1.75 billion. Thereafter, the REA expanded it to address an apparent shortfall in funding and include FM stations and LPTV/translator 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). Not more than \$350 million from the REA's fiscal year 2018 funds is specified for reimbursement of full power and Class A stations and MVPDs. The REA directs that not more than \$50 million of the funds appropriated in fiscal year 2018 be used to reimburse FM radio stations, not more than \$150 million be used for LPTV/translator stations, and \$50 million be used for consumer education. The Commission has determined that it will prioritize payment of full power and Class A television stations and MVPDs over payment of other entities beyond the funds defined in the REA as fiscal year 2018 funds. See *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, 1699-1700, para. 19 (2019) (*REA Report & Order*).

<sup>4</sup> See 47 CFR § 73.3700(e). All estimated and actual reimbursement submissions are made using FCC Form 2100, Schedule 399. *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6812-26, 6817-18, para. 611 n.1725 (*Incentive Auction R&O*); *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 883, para 77 (IATF/MB 2017) (*Broadcast Procedures PN*).

<sup>5</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6817-18, para. 611 n.1725; *Broadcast Procedures PN*, 32 FCC Rcd at 882-83, paras. 75-77.

<sup>6</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6819, para. 614.

<sup>7</sup> 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) (*Close Out Procedures PN*).

verified estimates, the procedure consists of an interim and final close-out process. When an entity has submitted all of its invoices and supporting documentation, it must use the Reimbursement Form to notify the Bureau. 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 an overpayment is identified, the entity is notified that it must return the excess amount to the Commission.<sup>8</sup> Once the financial reconciliation statement has been reviewed by the entity 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. As of February 15, 2022, approximately 753 entities have initiated interim close-out procedures.

6. We have stated that after all or nearly all entities have entered the close-out process – or at an earlier time if we 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 entities for the total amount of remaining incurred expenses.<sup>9</sup> At such time, each entity will enter the final close-out process 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.<sup>10</sup> 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 U.S. Treasury and dedicated for the sole purpose of deficit reduction.<sup>11</sup>

7. All entities in the program should initiate interim close-out procedures as soon as they complete their construction projects and have incurred and submitted invoices for all of their reimbursable costs. We set three invoice filing deadlines for specific categories of program participants, recognizing that repacked stations with phase assignments earlier in the transition period were more likely to have completed all construction and thus incurred all costs before other entities, and that MVPDs, FM stations, and LPTV/translator stations may incur expenses toward the end of the program.<sup>12</sup> This phased approach sequences the processing work to help prevent a deluge of filings at the program’s end that could jeopardize full reimbursement and that lessens the resource burden on participants by spreading out the work.<sup>13</sup> The first invoice filing deadline was October 8, 2021, and applied to all repacked stations assigned to phases 1 through 5. The second and third filing deadlines are March 22, 2022, and September 6, 2022.

8. 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.”<sup>14</sup> Further, the Commission specifically contemplated that “a third-party audit firm 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 . . . Reimbursement Period.”<sup>15</sup> The Commission directed that “[e]ntities receiving money from the

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<sup>8</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6815-16, para. 607; *Procedures for Submitting Financial Information Required for the Disbursement of Incentive Payments and Reimbursement Payments after the Incentive Auction Closes*, Public Notice, 32 FCC Rcd 2003, 2023-25, paras. 70-78 (2017) (*Financial Procedures PN*).

<sup>9</sup> *See Close Out Procedure PN*.

<sup>10</sup> *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.”).

<sup>11</sup> 47 U.S.C. § 1452(j)(1)(A)-(B).

<sup>12</sup> *See Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, Public Notice, 35 FCC Rcd 11273 (MB/IATF 2020) (*Invoice Filing Deadline PN*).

<sup>13</sup> *Invoice Filing Deadline PN*, 35 FCC Rcd at 11276-78.

<sup>14</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6826, para. 635.

<sup>15</sup> *Id.*

Reimbursement Fund must make available all relevant documentation upon request from the Commission or its contractor.”<sup>16</sup> We have utilized such techniques to oversee the Fund. For instance, the initial Reimbursement Form, among other things, required each entity to identify its pre-transition operational equipment.<sup>17</sup> In 2018, the Fund Administrator visited the facilities of a statistically valid sample of television stations that were participating in the Fund to validate the existence and functionality of baseline equipment reflected in their Reimbursement Forms.<sup>18</sup>

9. ***Final Allocation.*** As we have stated, when there is sufficient data from the Fund for us, in consultation with the Fund Administrator, to reasonably extrapolate that there are sufficient funds available to meet the total cost of the program, we then may make a final allocation to reimburse entities for the total amount of remaining incurred expenses.<sup>19</sup> As a result of our analysis of the data now available, we believe a final allocation is warranted to increase the allocation for each eligible participant from 92.5% to 100% of the entity’s verified estimates. As of February 15, 2022, the verified estimates in the Reimbursement Fund totaled \$2.15 billion and the total allocation was \$2.07 billion. Thus, the final allocation we will now make amounts to approximately \$85 million.

10. Pursuant to the requirements of the first invoice filing deadline, 492 full power and Class A stations were required to submit all remaining invoices and initiate the interim close out process by October 8, 2022. Additional entities in the program, including other full power and Class A stations, LPTV/translator stations, FM stations, and MVPDs, have also finished their construction projects, submitted all invoices, and initiated the interim close-out process. In addition, information submitted by program participants that have not yet initiated the interim close-out process nevertheless provides a clearer picture of those entities’ estimated and actual total expenses due to the significant progress they have made toward completion of their construction projects. Notably, while the total verified estimates in the Reimbursement Fund steadily increased throughout the program, the advent of the invoice filing deadlines and the initiation of interim close-outs for a significant number of participants has stabilized that figure. Thus, with the benefit of this more comprehensive and accurate information on total verified estimates, expected total payments, and the rate and amount of payments disbursed, we, with the support of the Fund Administrator, have concluded that there are sufficient funds available to support making a final allocation at this time.

11. Once we make the final allocation, entities may view their individual allocations in the CORES Incentive Auction Financial Module pursuant to the procedures outlined in the *Financial Procedures Public Notice*. Authorized Agent(s) will be able to view the exact amount allocated to each entity via in the Auction Payments component of the CORES Incentive Auction Financial Module.<sup>20</sup>

12. This final allocation will permit entities to be fully reimbursed for approved expenses. This will streamline the final close-out procedures. Entities that have already completed the interim close-out process may now enter the final close-out phase. Entities that initiate the close-out process after we make the final allocation will proceed through a streamlined, single-step close-out process, resulting in a resource savings for both the entities and the Commission.

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<sup>16</sup> *Id.*

<sup>17</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6817-18, para. 611 n.1725; *Broadcast Procedures PN*, 32 FCC Rcd at 883, para 77.

<sup>18</sup> *Incentive Auction Task Force and Media Bureau Announce Site Visit Validation of TV Station Baseline Equipment As Part of Post-Incentive Auction Reimbursement Program*, Public Notice, 33 FCC Rcd 1135 (IATF/MB 2018) (*Baseline Site Visit PN*).

<sup>19</sup> *See Close Out Procedures PN*.

<sup>20</sup> *See Financial Procedures PN*, 32 FCC Rcd at 2029, para. 96. Adjustments to the allocation amounts for specific entities may be made as a result of the filing of additional information or a true up through the end of the program.

13. ***Post-Implementation Site Visit Program.*** The Commission has long stated its intent to conduct site visits to confirm the existence and proper use of equipment paid for from the Reimbursement Fund.<sup>21</sup> Such review procedures are deemed essential in preventing fraud, waste, and abuse, and thereby maximize the amount of money available for reimbursement.<sup>22</sup> Therefore, we will begin making post-implementation site visits to facilities of certain Reimbursement Fund participants to validate the existence and operational status of post-transition equipment for which the entity received reimbursement, and to ensure that such equipment is being used by the fund participant for its intended purpose.

14. Not every Fund participant will be visited. Instead, we will randomly select a statistically valid sample of Fund participants located in the contiguous United States.<sup>23</sup> In addition, other Fund participants may be selected for site visits based on specific facts or circumstances.

15. A third-party contractor will conduct the site visits.<sup>24</sup> We anticipate that each site visit will consist of one or two contractor staff who will spend one or two days on site to physically inspect the facility and equipment. While on site, the contractor staff also will verify the existence and functionality of equipment listed in the entity's Reimbursement Form. The contractor will report its findings to us for review.<sup>25</sup>

16. We will notify entities selected for site visits and the contractor will provide them the opportunity to participate in a pre-visit teleconference to coordinate timing and other details of the visit. Letters will be sent by both overnight mail and email to the entity's reimbursement point of contact and counsel of record. Pre-visit teleconferences will be set at mutually convenient times thereafter. Site visits are expected to begin in March 2022 and continue throughout 2022.

17. ***Invoice Filing Deadlines.*** All full power and Class A TV stations assigned transition completion dates in phases 6-10 of the Transition Scheduling Plan<sup>26</sup> must submit all remaining invoices for reimbursement from the Fund using the Reimbursement Form no later than **March 22, 2022.**<sup>27</sup>

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<sup>21</sup> See e.g. *Incentive Auction R&O*, 29 FCC Rcd at 6826-7, para. 636, (stating “[t]he Bureau or an authorized contractor also may conduct site visits to confirm that equipment paid for from the Reimbursement Fund has been deployed”), at 6832-3, para. 652 (stating “we will use site visits to validate that entities that received reimbursement for purchasing new equipment actually have deployed that new equipment”).

<sup>22</sup> *Incentive Auction R&O*, 29 FCC Rcd at 6826, para. 635.

<sup>23</sup> Consistent with ordinary practices for sample selection, we will select replacement entities if necessitated by specific circumstances.

<sup>24</sup> The structure and procedure of this post-implementation site visit program are similar to the baseline site visit program conducted as part of the Reimbursement Program in 2018. See *Baseline Site Visit PN*.

<sup>25</sup> The site visits will be conducted under Consulting Standards of the American Institute of Certified Public Accountants.

<sup>26</sup> 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 Plan PN*). A station that was granted permission to change phases is assigned to the deadline associated with its revised phase completion date. This group also includes a small number of stations that were moved from the first invoice filing deadline, October 8, 2021, to the March 22, 2022 deadline due to circumstances beyond their control. All 462 repacked stations in this group transitioned to their post-auction channels by the end of September 2020.

<sup>27</sup> See *Invoice Filing Deadline PN; Invoice Filing Deadlines for TV Broadcaster Relocation Fund Reimbursement Begin on October 8 2021*, Public Notice, DA 21-404, 2021 WL 1328925 (MB/IATF Apr. 8, 2021) (*Six Month Reminder of 1<sup>st</sup> Invoice Filing Deadline PN*); *TV Broadcaster Relocation Fund Filing Deadline Approaches in Sixty Days*, Public Notice, DA 21-970, 2021 WL 3501416 (MB/IATF rel. Aug. 9, 2021); (*Sixty Day Reminder of 1<sup>st</sup> Invoice Filing Deadline PN*); *TV Broadcaster Relocation Fund Filing Deadline Approaches in Thirty Days*, Public Notice, DA-21-1117 (MB/IATF Sep. 28, 2021) (*Thirty Day Reminder of 1<sup>st</sup> Invoice Filing Deadline PN*); *TV Broadcaster Relocation Fund Invoice Filing Deadline Approaches in Sixty Days*, Public Notice, DA 22-72 (MB/IATF Jan. 22, 2022) (*Sixty Day Reminder of 2<sup>nd</sup> Invoice Filing Deadline PN*).

18. Entities do not need to wait for the deadline to submit all remaining invoices and initiate close-out procedures. Extensions of the assigned invoice submission deadlines should not be required.<sup>28</sup> In the event a station subject to the March 22, 2022, deadline faces circumstances beyond its control, however, we will consider a limited extension by means of shifting to the third, and last, invoice filing deadline assignment of September 6, 2022. 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.<sup>29</sup>

19. The Fund Administrator will initiate close out for any entity that has failed to initiate the process by the invoice filing deadline assigned to that entity. Any unused allocations made to that entity's account will be returned to the Fund and made available for allocation to other program participants.

20. The third, and last, invoice filing deadline of **September 6, 2022**, applies to all MVPDs, FM stations, and LPTV/translator stations.<sup>30</sup>

21. ***Record Retention.*** We again remind participants that they must retain documents for a period ending 10 years after the date they receive their final payments from the Reimbursement Fund.<sup>31</sup> Additionally, entities may be selected for audits, data validations, and site visits at any time during the repack and reimbursement process, i.e., before or after the entity has completed its construction project; during the close-out period; or at a time thereafter.

22. 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](mailto:Reimburse@fcc.gov).

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<sup>28</sup> Close-out procedures were announced almost three years ago on February 16, 2019. *See Close Out Procedures PN*. The upcoming March 22, 2022 invoice filing deadline, which we announced in October 2020, provided entities with more than a year's advance notice. *See Invoice Filing Deadline PN*, 35 FCC Rcd 11273.

<sup>29</sup> Requests for a limited extension from the second to third deadline should be filed as a legal STA in LMS. Waiver of the filing fee may be selected when filing the STA in LMS. Additional guidance is available on the Commission's Reimbursement Fund webpage <https://www.fcc.gov/about-fcc/fcc-initiatives/incentive-auctions/reimbursement> under the "Education and Reference" tab, Reimbursement FAQs for Full Power and Class A Stations and MVPDs at page 18. We will not consider the availability of reimbursement or the status of specific reimbursement requests to be a mitigating factor in evaluating extension requests, and we will not 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. *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13; *Six Month Reminder of 1<sup>st</sup> Invoice Filing PN*, at \*2, para 5; *Sixty Day Reminder of 1<sup>st</sup> Invoice Filing PN* at n.4; *Thirty Day Reminder of 1<sup>st</sup> Invoice Filing PN* at para 2; *Sixty Day Reminder of 2<sup>nd</sup> Invoice Filing Deadline PN* at para 2.

<sup>30</sup> *See Sixty Day Reminder of 2<sup>nd</sup> Invoice Filing Deadline PN*.

<sup>31</sup> *See Invoice Filing Deadline PN*, 35 FCC Rcd at 11278-79, paras. 15-17.