

# Incentive Auction and Repacking Update

May 4, 2017

With the post-auction transition underway, we will be providing regular updates to our television clients regarding upcoming deadlines and suggestions to make the transition as easy as possible.

This update includes information both for winning reverse auction bidders and stations affected by the post-auction repack.

## Winning Reverse Auction Bidders

**May 11, 2017 - Form 1875 Deadline.** Stations that submitted winning bids in the reverse auction must submit their signed and notarized Form 1875 by mail to the FCC no later than May 11, 2017. Failure to submit your form by the deadline could result in a delay in your auction payment.

- Licensees that submitted a winning reverse auction bid must login to the FCC's new Commission Registration System (CORES II) and associate one or more authorized representatives with the licensee's FCC Registration Number ("FRN"). This should be the same FRN that the licensee used to file its Form 177 application to participate in the reverse auction. For more information about how to use the CORES II system, [click here](#).
- The licensee name on Part I of Form 1875 should exactly match: (1) the licensee name listed in the FCC's Closing and Channel Reassignment Public Notice; (2) the business name of the winning bidder as listed in CORES II (if different from the licensee's name); and (3) the name on the bank account used to receive the auction proceeds. If the name on the licensee's bank account does not exactly match the name listed in the Closing and Channel

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## Practice Areas

Media  
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Reassignment Public Notice, to avoid any delays, we recommend selecting the option to designate a third party payee and identify the name on the bank account as the third party payee.

- The tax identification number on Part I of Form 1875 should also match the tax identification number associated with the licensee's FRN. If you are not sure what tax identification number is associated with the FRN, you can check the number by logging into CORES II, selecting "manage existing FRNs," then "Manage FRNs," then clicking "Update/View FRN" next to the appropriate licensee name.
- Once the FCC approves a licensee's initial submission, the designated agent will be able to login to the CORES financial module to enter the licensee's bank payment information.
- The routing information provided in Section 4.a should be for ACH payments, not wire transfers.

**July 2017 – Issuance of Incentive Payments.** The FCC is currently planning to issue payments to all winning reverse auction bidders at the same time, during the month of July 2017. The FCC cannot issue incentive payments to broadcasters, however, until it has issued licenses to winning forward auction bidders. Therefore, any delay in the issuance of licenses to winning forward auction bidders could affect this timing.

**Ongoing – MVPD and Viewer Notices.** Stations that submitted winning bids to go off-air or channel share must provide notices to MVPDs and viewers at least 30 days prior to relinquishing their pre-auction channels (stations that submitted successful bids to change bands must provide viewers with 30 days' notice and MVPDs with 90 days' notice). We strongly encourage stations to plan in advance to ensure that delayed notices do not affect their ability to timely surrender their pre-auction channels. If Wiley Rein will be preparing and mailing your MVPD notices, please provide us with at least three days' notice before the deadline to mail the MVPD notices. For more information about the notice requirements, [click here](#).

### **Stations Subject to Repacking**

**May 15, 2017 - Service Rule Waiver Deadline.** Licensees interested in obtaining a waiver of the FCC's service rules to make flexible use of their spectrum in lieu of receiving reimbursement for their repacking costs must submit a request to the FCC by May 15, 2017. Submitting a request does not ensure that the FCC will grant a waiver of the service rules. Rather, the Media Bureau will evaluate waivers on a case-by-case basis in accordance with the Commission's general waiver standard. Note that nothing prevents a licensee that accepts reimbursement funds from later seeking a waiver of the service rules under the same general waiver standard. We strongly encourage clients to contact us before submitting a waiver request.

**June 12, 2017 – "Unable to Construct" Waiver Deadline.** Stations unable to construct the facilities assigned to them in the Closing and Channel Reassignment Public Notice must submit a request to the FCC by June 12, 2017 for a waiver of the deadline to file construction permit applications for their assigned facilities.

**July 12, 2017 – Construction Permit and Cost Estimate Deadline.** Stations moving to new channels must submit their construction permit applications for their assigned post-auction facilities by July 12, 2017. Also by this date, stations eligible for reimbursement costs must file an Application for Estimated Construction Costs (Form 399). Stations should already be working with their internal and external engineers to prepare their

construction permit applications.

**Ongoing – Form 1876 Deadline.** Stations that will be seeking reimbursement for their transition costs must submit their signed and notarized Form 1876 to the FCC before they will be able to receive any reimbursement payments.

- Licensees seeking reimbursement funds must login to the FCC’s new CORES II System and associate one or more authorized representatives with the licensee’s FRN.
- The licensee name on Part I of Form 1876 should exactly match: (1) the licensee name listed in LMS; (2) the business name of the winning bidder as listed in CORES II (if different from the licensee’s name); and (3) the name on the bank account used to receive reimbursement payments. If the licensee’s bank account does not include the exact name of the licensee, as reflected in LMS, you should attempt to reconcile the names to avoid any delays. If the licensee does not have a bank account, you will need to open an account in the licensee’s name. The FCC will not authorize reimbursement payments directly to third parties (including parent companies).
- The tax identification number on Part I of Form 1876 should also match the tax identification number associated with the FRN. If you are not sure what tax identification number is associated with the FRN, you can check the number by logging into CORES II, selecting “manage existing FRNs,” then “Manage FRNs,” then clicking “Update/View FRN” next to the appropriate licensee name.
- Once the FCC approves a licensee’s initial submission, the designated agent will be able to login to the CORES financial module to enter the licensee’s bank payment information.
- The routing information provided in Section 2.a should be for ACH payments, not wire transfers.

Wiley Rein is prepared to assist television stations with all of their post-auction needs. You can view a list of our post-auction services [here](#).

If you have any questions about the post-auction process, please contact the Wiley Rein attorney who regularly handles your FCC matters or one of the attorneys listed on this client alert.