

# Post-Auction Obligations for Stations

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*Updated April 13, 2017:* The Federal Communications Commission (FCC or Commission) has issued its Broadcast Transition Procedures Public Notice providing broadcasters with detailed information, instructions, and projected deadlines for filing applications and making other required notifications related to the post-incentive auction transition. Those instructions and deadlines vary depending upon the station's post-auction status (e.g., surrendering license and ceasing operations, channel sharing, or changing channels). This memo provides a high-level overview of a station's obligations depending on its post-auction plans.

## I. Winning Bid Station – Surrendering License and Ceasing Operations

- The station must cease operations within 3 months of receiving payment (if did not indicate an intent to channel share on Form 177).
- If the station indicated an intent to channel share on Form 177, it is considered a channel sharee and may operate for up to 6 months after receiving payment, as described in the following section.
- Although stations may end operations earlier, they should be mindful of quiet period obligations and viewer and MVPD notifications (*see below*).
- **MVPD Notifications:** The station must provide notification in the form of a letter to MVPDs at least 30 days before terminating operations (*see Appendix I*).
- **Viewer Notifications:** The station must air viewer notifications for a minimum of 30 days prior to the date it ceases operations (*see Appendix I*).

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Telecom, Media & Technology

- At least 2 days prior to ceasing operations, the station must file a Suspension of Operations Notification via LMS and email a copy to [IATransitionlicensing@fcc.gov](mailto:IATransitionlicensing@fcc.gov). This notice must include a statement of compliance with the viewer notification requirement.
- As soon as possible after ceasing operations, the station must file a Request to Cancel License via LMS and email a copy to [IATransitionlicensing@fcc.gov](mailto:IATransitionlicensing@fcc.gov).

**Note Regarding the Receipt of Auction Proceeds:** The Commission has issued a separate public notice explaining how it will distribute auction proceeds and the steps each winning station must take to receive those proceeds. A summary of that public notice can be found [here](#).

## **II. Winning Bid Station – Surrendering License and Operating Pursuant to a Channel Share Agreement (obligations of Sharer and/or Sharee)**

- The station that is surrendering its channel (Sharee) has 6 months from the receipt of auction proceeds to cease operations on its pre-auction channel and begin operating pursuant to the CSA on the host station (Sharer). Please see note above regarding the receipt of auction proceeds.
- At least 60 days prior to the CSA implementation deadline, the Sharee station must file an application for a minor modification to specify the same technical facilities as the Sharer station. A copy of the CSA must be included as an attachment to this application.
- After grant of the construction permit and within 6 months from the date the Sharee station receives its auction proceeds, both Sharer and Sharee stations must file an application to modify their licensed facilities to reflect shared operation at the host site.
- Stations may seek up to two 3-month extensions of the construction deadline. The Commission indicated it will review the first request “most favorably” and the second request “favorably” as long as it will not delay the post-auction transition; however, it cautioned that requests for additional time are unlikely to meet its waiver standard.
- These deadlines apply regardless of whether the station entered into a CSA pre or post auction.
- **MVPD Notifications:**
  - Both Sharer and Sharee stations must provide notification in the form of a letter to MVPDs at least 30 days before beginning shared operations (*see Appendix I*).
  - The Sharee station must also provide notifications to MVPDs in the form of a letter at least 30 days prior to terminating operations on its pre-auction channel.
- **Viewer Notifications:** Prior to ceasing operations on its existing channel, the Sharee station must air viewer notifications for a minimum of 30 days (*see Appendix I*), and place a certificate of compliance with these requirements in its public file.
- At least 2 days prior to ceasing operations, a Sharee station must file a Suspension of Operations Notification via LMS and email a copy to [IATransitionlicensing@fcc.gov](mailto:IATransitionlicensing@fcc.gov). The station must include its pre-auction license with this notification.

### III. Station Changing Channels - Reassignment Within Band or Band-Changing (UHF to VHF or High-VHF to Low-VHF)

The Closing and Reassignment Public Notice issued by the Commission lists the new channel assignment, technical parameters and construction phase deadline of each station that must be reassigned to another channel within its band (a reassignment station) or that is moving to the high-VHF or low-VHF band (a band-changing station). The issuance of this Public Notice started the filing timelines discussed below.

As explained in the FCC's *Repack Transition Scheduling Public Notice*, a summary of which can be found here, each station will be assigned to one of 10 construction phases based on a methodology adopted by the Commission. Each station must complete its repack transition by the deadline specified for its construction phase.

Stations that are changing channels must do the following:

- Within 90-days from the release date of the *Closing and Reassignment Public Notice* (Initial 90-day Window), file a minor modification application for a construction permit that specifies the post-auction channel and technical parameters listed in the *Closing and Reassignment Public Notice*.
- All stations listed in the *Closing and Reassignment Public Notice* are required to file a minor modification application for their new facilities during the Initial 90-day Window, unless the station is unable to construct the facility specified in that Public Notice (*see below for more information*).
- Applications filed within the Initial 90-day Window must propose facilities consistent with the technical parameters specified in the *Closing and Reassignment Public Notice*, with minor exceptions. The Commission will process these applications on an expedited basis.
- Within the Initial 90-day Window, stations also must file a Reimbursement Form (*see below for more information*).
- Once the new facility is constructed, and no later than the construction phase deadline listed on its construction permit, the station must file a license application.
- **MVPD Notifications:** The station must provide MVPD notifications no less than 90 days prior to the date it begins operating on its new channel (*see Appendix I*).
- **Viewer Notifications:** For a minimum of 30 days prior to beginning operations on its new channel, the station must air viewer notifications (*see Appendix I*). The station must place a certificate of compliance with these requirements in its public file.
- **Health Care Facility Notifications:** "With ample time" before beginning operations on its post-auction channel, the station must notify health care facilities within its service area (*see Appendix I*). The station must place a certificate of compliance with these requirements in its public file.

Stations that cannot construct the facility specified in the *Closing and Reassignment Public Notice* or that want to request alternate channels and/or expanded facilities will have an opportunity to file applications after the Initial 90-day Window is closed. Specifically, within approximately 30 days after the close of the Initial 90-day

Window, the Media Bureau will open the First Priority Window (which will last 30 days). Approximately 14-30 days after the close of the First Priority Window, the Bureau will open the Second Priority Window (also 30 days).

**First Priority Window** – only the following stations may file an application during this window:

- Reassigned stations and stations changing bands that are “unable to construct” facilities that meet the technical parameters specified in the *Closing and Reassignment Public Notice*;
- Any reassigned station, band-changing station, or non-reassigned station entitled to protection in the repacking process that is predicted to experience a loss in population served in excess of one percent as a result of the repacking process; or
- Class A stations that did not receive protection in the repacking process and were displaced during the repacking process.

**Second Priority Window** – following the conclusion of the First Priority Window, the Media Bureau will open a second filing window for any reassigned station or band-changing station to seek an alternate channel or expanded facility that is different from the technical facilities specified in the *Closing and Reassignment Public Notice*. Note: these stations must have filed a minor modification application in the Initial 90-day Window. This filing opportunity is to amend a station’s earlier application or to modify its construction permit, if already granted.

#### **IV. Post-Auction Reimbursement Process**

Stations that are involuntarily reassigned are eligible for reimbursement of their “reasonably incurred” costs. Stations must file Reimbursement Forms to submit both their estimated costs and, after incurring the costs, documentation substantiating all such expenses. In lieu of receiving reimbursement, a reassigned station may request a waiver of the Commission’s service rules permitting the station to make flexible use of its post-auction channel spectrum to provide services other than broadcast television services.

- **Reimbursement Cost Estimates**

- Reassigned stations must file their estimated construction costs for equipment and services no later than 90 days after release of the *Closing and Reassignment Public Notice*. The Media Bureau will then make an initial reimbursement allocation for each reassigned station, which the station may then draw down against as it incurs actual expenses.

- Relocation cost estimates and any required supporting documentation must be filed via LMS using the Reimbursement Form. When filing estimated costs, reassigned stations must identify their current operational equipment as well as the equipment and services they expect to purchase to complete the post-auction channel transition. Cost estimates can be based either on the predetermined cost estimates identified in the Catalog of Eligible Expenses or by obtaining price quotes from vendors. Stations must submit supporting cost estimate documentation (such as a price quote from a vendor) for any equipment or service for which there is

no predetermined cost estimate in the Catalog, and must provide a detailed explanation if an estimate exceeds the amount listed for the particular equipment or service in the Catalog.

- **Actual Expenses Incurred**

- As reassigned stations incur actual costs, they must file actual reimbursement claims along with any required supporting invoices and other cost documentation using the Reimbursement Form via LMS. A separate form must be filed for each station. A station may submit multiple reimbursement requests as they incur expenses throughout the reimbursement period. The Media Bureau will announce the deadline by which all remaining expense documentation and additional estimates for work not yet completed must be submitted.
- A station must provide a detailed explanation on the Reimbursement Form if an actual cost exceeds the estimated cost for a particular line item. Costs incurred during or before the incentive auction that would otherwise be reimbursable are eligible for reimbursement.
  - **Service Rule Waiver in Lieu of Reimbursement:** In lieu of receiving reimbursement for relocation costs, a reassigned station may request a waiver of the Commission's service rules to allow the station to provide services other than broadcast television services. Such waivers are subject to all applicable interference protections and will only remain in effect while the licensee provides at least one broadcast television program stream on such spectrum at no charge to the public. The Media Bureau will evaluate waivers on a case-by-case basis in accordance with the Commission's general waiver standard.

## **Appendix I**

### **Viewer Notification Requirement**

- A commercial station that is relinquishing its license:
  - Must air (i) at least 1 PSA and (ii) at least 1 crawl in every quarter of every day for 30 days prior to the date it terminates operations. One of the PSAs and one of the crawls must run during primetime each day.
  - The crawls must run during programming for no less than 60 consecutive seconds across the bottom or top of the viewing area.
- A NCE station that is relinquishing its license:
  - May either comply with the above requirements for commercial stations, or

- Air 60 seconds per day of on-air consumer education PSAs for 30 days prior to the date it terminates operations. Stations electing this alternative may choose when to air these PSAs.
  - Both commercial and NCE channel sharees and stations that are changing channels (reassigned stations or band-changing stations):
- Must air 60 seconds per day of (i) on air education, (ii) PSAs, or (iii) crawls for 30 days prior to the station's termination of operations on its pre-auction channel.
- Must also provide instructions (via PSAs, crawls or on air education) to over-the-air and MVPD viewers about how to continue watching the station.
  - Crawls must be provided in the same language as a majority of the programming carried by the station.
  - Crawls must include the date the station will terminate operations on its pre-auction channel; inform viewers of the need to rescan (if moving to a different channel); and explain how viewers may obtain more information by telephone or online (by calling or emailing the station or the FCC).
  - PSAs must run for a minimum of 15 seconds and contain the same information.
  - PSAs must be closed captioned.

### **MVPD Notification Requirement**

As applicable, stations must send notifications to each MVPD that (i) will no longer have to carry the station because it has relocated or ceased operation, (ii) currently carries and will have to continue to carry the station on a new channel, or (iii) does not currently carry the station, but will now be required to because of a relocation of a channel sharing station. The letter notification must include the following information:

- Date and time of any channel changes;
- Pre-auction and post-transition channel assignments;
- Modification, if any, to antenna position, location, or power levels;
- Stream identification information (for channel sharing stations); and
- Engineering staff contact information.

If any of this information changes during the station's transition, an amended notification must be sent.

### **Health Care Facility Notification Requirement**

Stations changing channels must make a good faith effort to identify and notify health care facilities within the station's service area of the station's impending channel change. The following relevant technical information should be provided so the facility can evaluate the potential for interference:

- Post-auction channel
- Targeted on-air date
- Effective radiated power
- Antenna location
- Antenna height