



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES CHANGES TO THE UNIVERSAL LICENSING SYSTEM TO IMPLEMENT THE COMMISSION'S IMMEDIATE APPROVAL PROCEDURES FOR WIRELESS LICENSE ASSIGNMENTS AND TRANSFERS

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) announces changes to the Commission's Universal Licensing System (ULS) to implement the Commission's rules and policies regarding its immediate approval procedures for wireless license assignments of authorization (assignments) and transfers of control (transfers).¹ These changes will become effective on August 1, 2005. Below the Bureau explains generally how these changes affect the filing and processing of wireless license assignments and transfers.²

Background and Overview

On July 8, 2004, the Commission adopted a *Second Report and Order* that, among other things, further streamlined the processing of license assignments and transfers by providing for immediate processing of applications that are filed on FCC Form 603, FCC Wireless Telecommunications Bureau Application for Assignment of Authorizations or Transfer of Control (Form 603), where the parties certify that the proposed transaction meets specific criteria indicating the absence of potential public interest concerns relating to eligibility, use restrictions, foreign ownership, designated entity policies, and competition.³ The Commission indicated that applications that meet these criteria will be eligible for overnight automated processing, while applications that do not meet these criteria will be subject to further review under specified timetables.

In the *Second Report and Order*, the Commission delegated authority to the Bureau to make the necessary form changes and software changes to the ULS in order to implement these new policies and further indicated that the Bureau would release a public notice advising the public once these procedures have

¹ See generally Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 19 FCC Rcd 17503 (2004) (*Second Report and Order*).

² As explained below, these changes implement the Commission's immediate approval procedures for license assignments and transfers only. Implementation of the Commission's immediate approval procedures regarding spectrum leasing arrangements will take place at a later date and will be announced by a separate public notice.

³ *Second Report and Order*, 19 FCC Rcd at 17553-17557.

been implemented and are available to the public.⁴ By this public notice, the Bureau announces that the changes necessary to implement the immediate processing of assignments and transfers will be effective as of August 1, 2005.

In the *Second Report and Order*, the Commission also adopted immediate approval procedures for certain spectrum leasing arrangements (“spectrum leases”) and indicated that all spectrum leases would be filed on a new FCC Form 608.⁵ The Bureau is continuing to develop FCC Form 608 and update ULS in order to implement the Commission’s immediate approval procedures for spectrum leases and will release a separate public notice later this year when those changes are final. In the meantime, the Bureau reminds parties that they should continue to use FCC Form 603-T and the interim filing procedures outlined in a prior public notice in order to submit spectrum lease filings.⁶

Form Changes

In order to collect much of the information to determine whether an application meets the criteria for immediate approval, certain questions were added, revised, or removed from the Form 603.⁷ In general, the changes pertain to eligibility, foreign ownership, designated entity policies, and competition. The changes include:

- Adding eligibility questions relating to the Broadband Radio Service (BRS) and the Educational Broadband Service (EBS) (questions 15a - 16).
- Removing the pending litigation question from the Basic Qualifications section (question 77 on the April 2002 version of Form 603).
- Adding a follow up question to the Alien Ownership section to determine if an appropriate declaratory ruling has already been issued regarding indirect foreign ownership cases (question 99b).
- Revising existing questions and adding additional questions to Schedule A to determine if unjust enrichment or other restrictions apply.
 - Total assets and gross revenue information have been temporarily removed from the Form 603. Per the instructions for the Form 603, this information must be provided as an exhibit to the Form 603.
- Adding competition-related questions that cover the services outlined in the *First Report and Order*⁸ and the *Second Report and Order* (questions 13 - 14b).

⁴ *Id.* at 17580.

⁵ *See generally Second Report and Order.*

⁶ *See* The Wireless Telecommunications Bureau Announces FCC Form 603-T is Available and Provides Guidance Regarding the Interim Process for Filing Spectrum Leasing Notifications and Applications, *Public Notice*, 19 FCC Rcd 1911 (2004).

⁷ On July 28, 2005, the Office of Management and Budget approved the revised Form 603. The assigned control number for the Form 603 is 3060-0800.

⁸ *See generally* Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20604 (2003), *Erratum*, 18 FCC Rcd 24817 (2003) (*First Report and Order*).

- Adding a question to determine if FCC Form 602, FCC Ownership Disclosure Information for the Wireless Telecommunications Services, is required to be submitted in conjunction with a Form 603 (questions 94a - 94b).
 - Note: If a Form 602 is required, the file number of the Form 602 must be provided before the Form 603 application can be submitted in ULS.

Note: Applications filed manually that have a receipt date of August 1, 2005 or later must be filed on the July 2005 version of Form 603. Applications filed on prior versions of Form 603 will be dismissed.

Immediate Approval Procedures and General Approval Procedures

For purposes of processing, Form 603 applications will fall into one of two categories: (1) Immediate Approval Procedures (IAP) or (2) General Approval Procedures (GAP).⁹

Immediate Approval Procedures (IAP): Applications will be processed pursuant to IAP if all of the criteria outlined under Section 1.948(j)(2) of the Commission’s rules are met. The determination as to whether an application meets the IAP criteria will be made based on responses to questions on the Form 603, as well as other information available to the Commission, such as whether the initial construction requirements have been met, whether there has been permanent discontinuation of operations under the subject call sign, and whether a party to an application owes non-tax delinquent debt to the Commission (commonly referred to as the “Red-Light” process). In most cases, an application processed pursuant to IAP will be reflected as such in ULS on the next business day after the application is received in ULS. For example, if an application is received in ULS on a Tuesday and the application meets the IAP criteria, the Commission’s consent will be reflected in ULS on Wednesday. Note, however, that if appropriate application fees have not been paid and confirmed, an application will be held from final processing until a fee determination can be made.¹⁰

General Approval Procedures: Applications that do not meet the IAP criteria will be processed pursuant to GAP as outlined under Section 1.948(j)(1) of the Commission’s rules. For example, if an application is submitted and includes a request for a waiver of the Commission’s rules, the application does not qualify for the IAP process and will instead be processed pursuant to the GAP process.

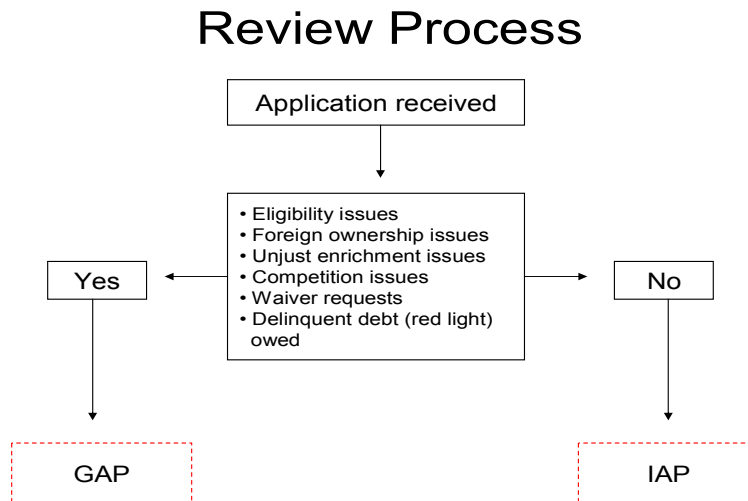
Note: Amendment applications will not be processed pursuant to IAP. For example, if an application is submitted and includes a request for a waiver of the Commission’s rules (thus precluding the application from being processed pursuant to IAP), and the waiver request is subsequently withdrawn through an amendment application, the application will still be processed pursuant to GAP.

In addition, no applications with a receipt date prior to August 1, 2005 will be processed pursuant to IAP.

⁹ Post-notification *pro forma* filings submitted pursuant to Section 1.948(c)(1) of the Commission’s rules will continue to be processed as they are currently processed.

¹⁰ The amount of time parties have to submit application fees has not changed. If application fees are not timely submitted, an application will be dismissed.

The following diagram is being provided to show generally how an application will be processed:



Changes to the Filing Environment and Filing Process

In conjunction with implementing the Commission’s immediate approval procedures for license assignments and transfers, the Bureau took a comprehensive look at the current process for filing Form 603 applications in ULS and made certain changes. After a complete redesign of the filing environment, applications will be filed using web-based software in the ULS “License Manager” environment. “License Manager” provides an enhanced filing environment for working with wireless applications and allows for simplified filing of applications in question and answer format through an application wizard. In addition, as outlined below, certain changes were made to the filing process. These changes include:

- Full assignments (*e.g.*, the entire call sign) and partial site-based assignments (*e.g.*, one or more locations/paths or frequencies, but not all) must be filed on separate applications. *See* Section 1.948(e) of the Commission’s rules for further information regarding partial assignments.
 - Question 10b has been added to determine if an assignment is for a partial site-based license.
- An involuntary transaction cannot be filed as a *pro forma* transaction. *See* Section 1.948(g) of the Commission’s rules for further information regarding involuntary transactions.
 - If the answer to question 8a is “Involuntary,” question 9a (regarding whether the transaction at issue is *pro forma*) must be left blank.
- There is no longer a requirement to file a Notification of Consummation (Schedule D) for an involuntary transaction. The date that the involuntary event occurred must be provided.
 - Question 8b has been added to collect the date.

- The consummation date for a post notification *pro forma* transaction must be provided at the time the Form 603 is filed. *See* Section 1.948(c)(1) of the Commission’s rules for further information regarding post notification *pro forma* assignment and transfer filings.
 - Question 9c has been added to collect the date.
- The name and corresponding administrative information (address, phone, fax, e-mail) for a party listed on an application can be pre-filled from a prior Form 603 application that is on file in ULS.
 - The information will be pre-filled from the most recently Form 603 on file in ULS regardless of the status of the filing.
- A contact representative and its corresponding address and phone number is required for each party listed on an application. Contact information can be pre-filled if it is the same as the party listed on an application.
- Coverage options on Schedule B for partitioning and disaggregation applications are not required if the license that is being partitioned and/or disaggregated does not have any buildout requirements. In addition, buildout deadlines will be added or removed from a license based on the coverage options selected at the time an application is submitted.
- Geographic coordinates on Schedule C for undefined partitioned areas can be uploaded in an electronic file format instead of entered individually into a filing. Also, up to 300 sets of coordinates can be provided to describe a single undefined area.
 - Instructions on how to format and submit an electronic file with geographic coordinates can be found in the online help files.
- In some instances, the parties required to submit filings have changed. Below is a list of parties that submit each type filing:
 - Transfers of Control are submitted by the Transferor.
 - The Licensee must log in to ULS to initiate a Transfer of Control.
 - Assignments of Authorization are submitted by the Assignor.
 - Notifications of Consummation are submitted by the Assignee (for an assignment) and by the Transferee (for a transfer of control).
 - Extensions of Time to Consummate are submitted by the Assignor (for an assignment) and by the Transferor (for a transfer of control).
 - Withdrawals are submitted by the Assignor (for an assignment) and by the Transferor (for a transfer of control).
 - If parties to a previously consented to application do not plan to consummate the transaction, the consented to application should be withdrawn.
- To file an assignment application, access the ULS homepage at <http://wireless.fcc.gov> and select “Online” filing. Enter the FCC Registration Number (FRN) and password of the Assignor and select “Submit.” Under the “My Licenses” link, select “Assign Authorization.”
- To file a transfer application, access the ULS homepage at <http://wireless.fcc.gov> and select “Online” filing. Enter the FCC Registration Number (FRN) and password of the Licensee and select “Submit.” Under the “My Licenses” link, select “Transfer Control.”

Filing Status

The final status description of filings processed on or after August 1, 2005 will change. The changes are as follows:

- Post-notification *pro forma* assignments and transfers filed pursuant to Section 1.948(c)(1) of the Commission's rules will have a final status of "Accepted" (status Q) instead of "Granted" (status G).
- Involuntary assignments and transfers filed pursuant to Section 1.948(g) of the Commission's rules will have a final status of "Accepted" (status Q) instead of "Consented" (status C) and "Consummated" (status M).
- Notifications of Consummation will have a final status of "Accepted" (status Q) instead of "Granted" (status G).

Application Search

Recently, the Bureau announced the redesign of the ULS application search.¹¹ Now the Transfers and Assignments application search as well as the detail pages of a Form 603 application have also been redesigned to have the same look and feel as the rest of the previously redesigned ULS application search. To access the Transfers and Assignments application search go to: <http://wireless.fcc.gov> and click on "Applications" and then under the "Specialized Search" heading click on "Transfers and Assignments."

Additional Information

For additional information or assistance on how to file Form 603, you may visit the Web at <http://esupport.fcc.gov>. You may also call the FCC Support Center at (877) 480-3201 (TTY 202-414-1255) and select Option #2, Forms or Licensing Assistance. Hours are from 8 a.m. to 7:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls are recorded.

¹¹ See Redesigned Application Search Interface and New License Search Capability Will Be Deployed in Universal Licensing System on May 9, 2005, *Public Notice*, 20 FCC Rcd 8735 (2005).