



# PUBLIC NOTICE

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DA 19-546

Released: June 10, 2019

## BROADCAST INCUBATOR PROGRAM APPROVED BY OMB PURSUANT TO PAPERWORK REDUCTION ACT

### Media Bureau Accepting Incubation Proposals

#### MB Docket No. 17-289

By this Public Notice, the FCC's Media Bureau (Bureau) announces that the Commission has received approval from the Office of Management and Budget (OMB) for the information collection requirements contained in the Commission's broadcast incubator program, as required by the Paperwork Reduction Act of 1995.<sup>1</sup> The Commission adopted the incubator program to support new and diverse entrants in the broadcasting industry.<sup>2</sup> The program is primarily designed to encourage large, experienced owners of full-service AM and FM radio stations to assist aspiring station owners that lack the financing or operational expertise needed to own and operate their own radio stations.

Interested parties seeking to participate in the Commission's broadcast incubator program may now file incubation proposals with the Bureau. Each incubation proposal must be approved by the Bureau in advance in order for the proposed relationship to qualify under the program. The procedure for filing incubation proposals is discussed below. The Bureau is also releasing updated versions of the instructions for FCC Forms 314, 315, and 301 to provide guidance for those seeking to file an incubation proposal as part of an application for an assignment, transfer of control, or new construction permit.<sup>3</sup>

Below, we provide a brief overview of the broadcast incubator program.<sup>4</sup> We strongly encourage those interested in participating in the incubator program to review the additional background materials listed at the end of this Public Notice as well. In addition, we welcome those intending to file an incubation proposal to contact Bureau staff prior to filing.

**Background.** Through the incubator program, an established station owner (i.e., the incubating entity) will provide a small, aspiring or struggling station owner (i.e., the incubated entity) with the training, financing, and access to resources that would be otherwise unavailable to the incubated entity.

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<sup>1</sup> Office of Management and Budget, OMB Control No. 3060-1260, Broadcast Incubator Program, Notice of Office of Management and Budget Action, ICR Reference No. 201902-3060-009 (Apr. 15, 2019).

<sup>2</sup> *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, MB Docket No. 17-289, Report and Order, 33 FCC Rcd 7911 (2018) (*Incubator Report and Order*).

<sup>3</sup> The updated instructions for FCC Forms 314, 315, and 301 are available on the Commission's website, at <https://www.fcc.gov/licensing-databases/forms>.

<sup>4</sup> This Public Notice merely summarizes some of the requirements that the Commission adopted for the broadcast incubator program, as set forth in the *Incubator Report and Order*. This Public Notice does not replace or supersede any requirement that the Commission adopted in the *Incubator Report and Order*.

At the end of a successful incubation relationship, the incubated entity will own the incubated station (or a newly acquired full-service AM or FM station), and the incubated station will also be on a firmer footing (if it had been struggling). In return for successfully incubating a small, aspiring or struggling station owner, the incubating entity will be eligible to receive a waiver of the Commission's Local Radio Ownership Rule as discussed in the *Incubator Order*.<sup>5</sup>

**Eligibility.** The incubator program is available for full-service AM and FM radio stations. The entity to be incubated must meet a two-pronged eligibility standard, consisting of both a numerical cap on the number of stations owned and an annual revenue cap.<sup>6</sup> In addition, as discussed below, the entity to be incubated must also certify that it would not be able to purchase a radio station or continue operating its struggling station without the support that the proposed incubation relationship will provide. The prospective incubating entity, on the other hand, must demonstrate that it has the commitment, resources, and experience needed to help the prospective incubated entity establish itself in the broadcasting industry.<sup>7</sup>

**Filing Procedures.** Before a qualifying incubation relationship begins, the parties must first file an incubation proposal with the Bureau and obtain the Bureau's approval. The Bureau will approve the proposal if it finds that the proposal is designed to help a small, aspiring or struggling broadcaster gain the ability to own and operate a full-service radio station independently and that the relationship otherwise qualifies and meets FCC requirements for the program.<sup>8</sup> If the incubation proposal involves an assignment, transfer of control, or the grant of a new construction permit, the proposal must be filed as an attachment to the relevant licensing application form (FCC Form 314, 315, or 301).<sup>9</sup> Applicants should refer to the instructions for the relevant form for further guidance. If the incubation proposal is not part of an assignment or transfer of control, or an application for a new construction permit, then it must be filed under a petition for declaratory ruling in the Incubator docket, MB Docket No. 17-289, in the Commission's electronic comment filing system (ECFS).<sup>10</sup> Courtesy copies of the filed applications should be provided to the individuals listed as Media Bureau contacts at the end of this Public Notice.

**Required Documents.** Each incubation proposal must contain: 1) a written incubation contract, 2) a certified statement from the proposed incubated entity, 3) a certified statement from the proposed incubating entity, and 4) a request for temporary waiver of the Commission's Local Radio Ownership Rule if the proposed incubation relationship would cause the incubating entity to exceed the local radio ownership limits.<sup>11</sup> Each document must meet the requirements discussed in the *Incubator Report and Order*.<sup>12</sup> Those requirements are summarized in the Small Entity Compliance Guide, DA 19-254, released on April 4, 2019.<sup>13</sup>

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<sup>5</sup> *Incubator Report and Order*, 33 FCC Rcd at 7936-41, 7945-46, paras. 64-73, 86-88.

<sup>6</sup> *Id.* at 7918-19, 7921-22, paras. 19-20, 25-27.

<sup>7</sup> *Id.* at 7943-44, para. 82.

<sup>8</sup> *Id.* at 7941-42, paras. 74-78.

<sup>9</sup> *Id.* at 7941-42, para. 76.

<sup>10</sup> *Id.* at 7942, para. 77.

<sup>11</sup> The Bureau may also require the applicants to submit additional information if needed to determine whether the proposed incubation relationship is likely to promote the goals of the incubator program.

<sup>12</sup> *Incubator Report and Order*, 33 FCC Rcd at 7942-44, paras. 79-83.

<sup>13</sup> A link to the Compliance Guide is provided in the "Additional Resources" section of this Public Notice.

**Review Process.** After receiving an incubation proposal, the Bureau will assign the proposal a docket (and file number, if applicable) and place the proposal on public notice. Comments, informal objections, petitions to deny, oppositions, and replies may be filed as permitted by the Commission's rules. The Bureau will review the incubation proposal and related filings (if any) to determine whether the proposed incubation relationship meets the requirements laid out in the *Incubator Report and Order*.<sup>14</sup> The Bureau may require the applicants to submit additional information if needed. If the Bureau approves the proposed incubation relationship, it will issue a decision in the docket assigned to the proposal.

**Reporting Requirements.** After the Bureau approves an incubation proposal, the parties will be required to submit annual reports and other filings as discussed in the *Incubator Report and Order*.<sup>15</sup> These subsequent filings will be submitted via ECFS using the specific docket number assigned to the incubation relationship.

**“Reward” Waivers.** After successfully completing an approved incubation relationship, the incubating entity will be eligible to seek a waiver of the Commission's Local Radio Ownership Rule (including the AM/FM subcaps). To obtain a reward waiver, the incubating entity must file a waiver request demonstrating that the incubated entity has completed a successful incubation relationship and that the incubating entity seeks to use the waiver in the same market as the incubated station or a comparable market.<sup>16</sup> Generally, the waiver request must be filed within three years of the date the incubation relationship ends. However, if the incubation relationship required a temporary waiver of the Local Radio Ownership Rule and the incubating entity seeks to use the reward waiver to acquire the incubated station (or to retain an attributable interest in the station), then the reward waiver request must be filed at the same time that the parties submit their last annual report.<sup>17</sup>

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#### **Additional Resources.**

- The Commission's *Incubator Report and Order* contains important details about the incubator program that are not discussed above. Parties should review the *Incubator Report and Order*, available at <https://www.fcc.gov/document/fcc-establishes-incubator-program-increase-broadcaster-diversity>, for more information about the program.
- Parties are also encouraged to review the Small Entity Compliance Guide published by the Media Bureau and the Commission's Office of Communications Business Opportunities. The Guide is available on the Commission's website, at <https://www.fcc.gov/document/broadcast-incubator-program>.
- As discussed above, the Bureau has updated the instructions for FCC Forms 314, 315, and 301 to provide guidance for those seeking to file an incubation proposal with an application for an assignment, transfer of control, or new construction permit. The updated instructions for these forms are available on the Commission's website, at <https://www.fcc.gov/licensing-databases/forms>.

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<sup>14</sup> *Incubator Report and Order*, 33 FCC Rcd at 7941-42, paras. 74-75, 78.

<sup>15</sup> *Id.* at 7944-45, paras. 84-86.

<sup>16</sup> *Id.* at 7937-41, 7945, paras. 66-73, 87.

<sup>17</sup> *Id.* at 7936-40, 7945-46, paras. 64, 86-88.

- The Bureau has also created a webpage for the incubator program, available at <https://www.fcc.gov/broadcast-radio-incubator-program>. The webpage contains links to the resources listed above and other related documents.

For additional information about the incubator program, please contact Radhika Karmarkar, [Radhika.Karmarkar@fcc.gov](mailto:Radhika.Karmarkar@fcc.gov), (202) 418-1523, Jamila Bess Johnson, (202) 418-2608, [Jamila-Bess.Johnson@fcc.gov](mailto:Jamila-Bess.Johnson@fcc.gov), Christopher Clark, [Christopher.Clark@fcc.gov](mailto:Christopher.Clark@fcc.gov), (202) 418-2609, Michael Wagner, [Michael.Wagner@fcc.gov](mailto:Michael.Wagner@fcc.gov), (202) 418-2775, or Annette Smith, [Annette.Smith@fcc.gov](mailto:Annette.Smith@fcc.gov), (202) 418-2763, of the Media Bureau. Press inquiries should be directed to Janice Wise, [Janice.Wise@fcc.gov](mailto:Janice.Wise@fcc.gov), at (202) 418-8165.

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