



PUBLIC NOTICE

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INITIAL ALLOCATION FOR LPTV/TRANSLATOR STATIONS FROM THE TV BROADCASTER RELOCATION FUND

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

1. The Incentive Auction Task Force and Media Bureau (Bureau) announce an initial allocation from the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) for low power television (LPTV) and TV translator (together LPTV/Translator) stations. This allocation enables us to commence reimbursement of approved invoices submitted by eligible LPTV/Translator stations.

2. At the close of the Incentive Auction and the beginning of the 39-month transition period on April 13, 2017, 987 full power and Class A stations were reassigned to new channels as part of the post-auction repack.¹ Certain LPTV/Translator stations would also be displaced by the rebanding and repacking process and the commencement of service by forward auction winners. A special displacement filing window in June 2018 provided such LPTV/Translator stations with an opportunity to select a new channel. We received over 2,100 such applications.

3. Congress provided \$2.75 billion for the Reimbursement Fund in the Spectrum Act and Reimbursement Expansion Act (REA) to reimburse certain costs associated with the post-Incentive Auction transition.² The reimbursement program began for full power and Class A TV stations and MVPDs in 2017, and pursuant to the REA was expanded to include FM stations and LPTV/Translator stations.³ The REA directs that not more than \$150 million of fiscal year 2018 funding be used for

¹ *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 Rcd 2786 (IATF, MB, and WTB 2017) (*Closing and Channel Reassignment PN*). This included 30 band-changing winners from the reverse auction and 957 non-winning stations.

² The Spectrum Act provided \$1.75 billion for full power, Class A stations and MVPDs. 47 U.S.C. §§ 1452(b)(4)(A)(i), (ii), 142(d). The REA addressed the Fund's apparent shortfall for full power and Class A stations and the lack of reimbursement funds for other categories of impacted broadcast stations. In addition to providing additional funds for reimbursement of eligible TV stations, the REA made funds available to the Commission for purposes of consumer education. The REA appropriated a total of \$1 billion, including \$600 million in fiscal year 2018 and \$400 million in fiscal year 2019. *See Consolidated Appropriations Act, 2018*, Pub. L. 115-141, at Division E, Title V, § 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. § 1452(j)-(n)).

³ Not more than \$350 million from the fiscal year 2018 funds is specified for reimbursement of full power and Class A stations and MVPDs. The REA also directs the Commission to reimburse costs reasonably incurred by FM stations to reasonably minimize disruption of service as a result of the repacking process and by displaced LPTV/translator stations to relocate or modify their facilities. *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*,

(continued...)

LPTV/Translator stations. 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.⁴

4. LPTV/Translator stations will follow a reimbursement process that is substantially similar to the process that has been used for full power and Class A stations and MVPDs since 2017. The reimbursement procedures developed by the Commission to disburse the Reimbursement Fund enable timely processing of reimbursement requests while also assuring that only eligible expenses are paid and that available funds are spread appropriately across all eligible entities. The procedures include engineering and accounting reviews by our Fund Administrator, who has extensive experience in television broadcast engineering and federal funds management, and review by Commission staff.

5. Specifically, LPTV/Translator stations must certify that they meet the required eligibility criteria and provide documentation or other evidence to support their certification.⁵ LPTV/Translator stations must also report estimates of the types and amounts of repack-related costs that they expect to incur, relying either on the range of costs for such expenses in the Cost Catalog or their own vendor quotes or actual expenditures.⁶ We review these eligibility and cost estimate submissions for sufficiency under our rules in order to issue an initial allocation from the \$150 million available for reimbursement of LPTV/translator stations. We make such Fund allocations in tranches to ensure that entities have the funding necessary to timely undertake construction projects while at the same time lessening the possibility of having to reduce future allocations and/or claw-backs of reimbursement payments that have already been drawn down, and assuring that funds are fairly distributed among all entities.⁷

6. The filing deadline for eligibility certifications and estimates by LPTV/translator stations was November 14, 2019. We received 947 eligibility submissions from LPTV/translator stations. As prudent stewards of taxpayer money and to prevent waste, fraud, and abuse, we, together with the Fund Administrator, carefully evaluated those eligibility certifications and cost estimates. Requests for additional information were sent to entities where necessary certifications or documentation appeared to be missing, incomplete, or improperly submitted. After review, 844 LPTV/Translator stations have been determined to satisfy the requirements for eligibility to participate in the reimbursement program. Stations that were found not to meet the eligibility requirements have been notified of that finding.⁸

7. The Fund Administrator also reviewed the cost estimates and the accompanying

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Report and Order, 34 FCC Rcd 1690 (2019) (*REA Report & Order*).

⁴ *REA Report & Order*, 34 FCC Rcd at 1699-1700, para. 19.

⁵ *Id.* at 1701-09, paras. 22-37 and 1733-34, paras. 91-92.

⁶ *REA Report & Order*, 34 FCC Rcd at 1734-35, para. 94; *Incentive Auction Task Force and Media Bureau Release Catalog of Potentially Reimbursable Costs for Low Power Television, Television Translator, and FM Broadcast Stations*, Public Notice, 34 FCC Rcd 1301 (IATF/MB 2019) (*LPTV/FM Cost Catalog PN*).

⁷ *Id.* at 1736-34, paras. 97-98; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6812-26, paras. 598-636 (2014) (*Incentive Auction R&O*); *Incentive Auction Task Force and Media Bureau Announce the Initial Reimbursement Allocation for Eligible Broadcasters and MVPDs*, Public Notice, 32 FCC Rcd 7556, 7556-57 (IATF/MB 2017) (*Initial Allocation PN*); *Initial Allocation for FM Stations from TV Broadcaster Relocation Fund and Report on the Status of the Post-Incentive Auction Transition, The Reimbursement Program, and the Consumer Education Program*, Public Notice, DA-19-1246 (IATF/MB 2019) (*FM Initial Allocation PN*).

⁸ LPTV/translator stations that were determined to be ineligible for participation in the reimbursement program received a direct e-mail communication on behalf of the Bureau describing the results of the review and the reason the station was determined not to meet the eligibility requirements. If such stations are able to provide sufficient justification and supporting documentation as to why the determination should be re-considered, they may request the staff to unfreeze their filing in order to amend their submission to make such a showing.

supporting documentation of the LPTV/translator stations that submitted cost estimates⁹ to validate that the estimates reflect costs reasonably incurred for the station to relocate its service from one channel to another channel or otherwise modify its facility as a result of the post-Incentive Auction transition. After the Fund Administrator completed its review of the estimates, the Bureau reviewed and verified the Fund Administrator's recommendations. The aggregate reimbursement demand as of March 26, 2020, for all the LPTV/Translator stations that filed estimates was \$164,922,143 and for those LPTV/Translator stations determined to be eligible was \$143,633,411. Based on the review of those estimates, the verified estimate amount for eligible stations was \$102,437,198.¹⁰ Each LPTV/Translator station that was found to be eligible will receive a direct e-mail communication describing the results of the reasonableness review, which will include: (1) the aggregate verified amount for that entity's submitted estimate; (2) where adjustments (if any) were made; and (3) the amount of the modification to any cost estimate line items.

8. In the full power, Class A, and MVPD reimbursement program, we made an initial allocation on October 16, 2017, to commercial stations and MVPDs of 52 percent of their then current estimated and verified costs, and to noncommercial educational stations of 62 percent of their verified estimates. At that time, verified estimates exceeded the total funds available and we anticipated the estimates would continue to rise. We calculated the allocation amount after consideration of reimbursement demand by discrete cost categories, including the estimated expenditures anticipated to be incurred as up-front costs. After that initial allocation, we carefully monitored draw-down amounts and revised estimates and made additional allocations. On April 16, 2018, after Congress appropriated additional funds to the program, we made a further allocation providing all entities approximately 92.5 percent of their then-current verified cost estimates.¹¹

9. For LPTV/Translator stations, we recognize a number of factors could apply upward pressure on the total amount of verified cost estimates, including the fact that (1) filers that were found ineligible due to lack of proper documentation could resubmit sufficient information to be reassessed as eligible, (2) some estimates that were removed from a specific station's verified amount could be resubmitted with sufficient additional justification, (3) additional costs could be identified, and (4) currently anticipated costs could rise. We believe it is important to make an initial allocation promptly and without waiting for greater visibility into any future changes so that LPTV/Translator stations can begin to be reimbursed for their expenses, which in some cases have already been incurred. However, the existence of these upward pressures and consideration of the total \$150 million designated for LPTV/Translator means that we also need to take appropriate measures to avoid the need for future allocation reductions and claw-backs and assure that we allocate funds fairly and consistently across all eligible LPTV/Translator stations.

10. We are, therefore, making an initial allocation to each eligible LPTV/Translator station in the amount of 85 percent of the station's verified cost estimates, for a total initial allocation of

⁹ A total of 843 LPTV/Translators that were deemed eligible for participation in the program submitted cost estimates. At this time, therefore, no allocation can be made to the eligible station that did not file cost estimate information. To the extent that station later submits estimates, those estimates will be reviewed and may be included in future allocations.

¹⁰ If, at the conclusion of the reasonableness review, certain expenses remained inadequately justified or otherwise not reimbursable, such expenses were, depending upon the nature of the concern, excluded from the recommended verified estimate amount or adjusted to the cost catalog amount for purposes of the LPTV/translator station's initial allocation. We note, however, that additional cost documentation or other revisions subsequently submitted may be considered in a later allocation.

¹¹ See *Incentive Auction Task Force and Media Bureau Announce a Further Reimbursement Allocation for Eligible Broadcasters and MVPDs*, Public Notice, 33 FCC Rcd 3732 (IATF/MB 2018) (*Further Allocation PN*). Similarly, on December 9, 2019, we announced an initial allocation to FM stations also in the amount of approximately 92.5 percent of their then-current verified cost estimates. *FM Initial Allocation PN*.

\$87,071,619. In calculating the allocation amount, the Bureau, in consultation with the Fund Administrator, considered the reimbursement demand by discrete cost categories. As the Commission has stated, holding back a percentage of the total estimated costs ensures that eligible entities do not face an undue financial burden and have funding available to accomplish a significant amount of their construction right away, while at the same time reducing the likelihood that the Commission might be required to claw-back payments that have already been drawn down by eligible entities should the estimates increase.¹² Each station will receive a direct e-mail communication describing the precise allocation and the estimates upon which it was based. Authorized Agent(s) for LPTV/translator stations may view the exact amount of the LPTV/translator station's individual allocations in the Auction Payments component of Commission Registration System (CORES) Incentive Auction Financial Module.¹³

11. LPTV/Translator stations may immediately begin submitting documentation of actual expenses incurred for approval to be drawn down against their individual allocations by uploading invoices or receipts and resubmitting the reimbursement form in the Bureau's Licensing and Management System. In so doing, stations will be required to revise their cost estimates prior to receiving reimbursement in cases where the initial cost estimate submission (and subsequent allocation) was based on a cost catalog value. Invoices for actual expenses incurred that have already been submitted will also be reviewed and processed for payment upon approval. LPTV/Translator stations should also be aware that while there was no deadline for submission of Form 1876 banking instructions, payments cannot be made until a station's Form 1876 has been approved – a process that can take several weeks.

12. We will monitor closely the drawdown of the Fund as well as revisions to initial cost estimates to determine if additional allocations are warranted. It is therefore important that eligible LPTV/Translator stations seeking reimbursement timely submit invoices after incurring costs. We expect that the level of reimbursement requests will increase substantially over the next few months as stations completing their transition submit final invoices and the program begins to reimburse LPTV/Translator and FM stations.

13. 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.

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¹² See *REA Report & Order*, 34 FCC Rcd at 1739, para. 105 (“If any allocated funds remain in excess of the entity's actual costs determined to be eligible for reimbursement, those funds will revert back to the Reimbursement Fund. In addition, if an overpayment is discovered, even after the final allocation has been made, the entity receiving an overpayment must return the excess to the Commission.”). See also *Incentive Auction R&O*, 29 FCC Rcd at 6819, paras. 614-16.

¹³ See *The Incentive Auction Task Force and Media Bureau Announce Procedures for Submitting Financial Information Required for Disbursement of Reimbursement Payments*, Public Notice, 34 FCC Rcd 7070 (MB/IATF Aug. 15, 2019).