



PUBLIC NOTICE

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MEDIA BUREAU PROVIDES FURTHER GUIDANCE ON SETTLEMENT WINDOW FOR MUTUALLY EXCLUSIVE APPLICATIONS SUBMITTED IN THE DECEMBER 2023, LPFM FILING WINDOW

On March 15, 2024, the Media Bureau (Bureau) released a Public Notice to (1) identify by group all of the mutually exclusive (MX) applications submitted in the December 2023, filing window for Form 2100, Schedule 318 applications for Low Power FM (LPFM) new station construction permits,¹ and (2) announce a 60-day period, until May 14, 2024, for MX applicants to enter into and file settlement agreements and/or to submit technical amendments to resolve conflicts and expedite the grant of applications filed in the recent LPFM window.²

The purpose of this Public Notice is to clarify that MX applicants may, at this time, also submit time-share agreements to resolve conflicts.³ Time-share agreements may be partial or universal, but are limited to three MX applicants.⁴ Any time-share agreement must propose the grant of technically acceptable applications, and not create new application conflicts, or make conflicts worse. During this settlement period, time-share applicants are not required to be tied with the same or highest point total in the MX group.⁵ Any time-share agreement filed for the purpose of point aggregation is prohibited at this time.⁶

¹ See *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, DA 23-642 (MB July 31, 2023); *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window; Window Open from December 6, 2023 to December 13, 2023*, Public Notice, DA 23-984 (MB October 17, 2023).

² See *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the December 2023, LPFM Filing Window; Opens Window To Accept Settlements and Technical Amendments*, Public Notice, DA 24-256 (MB March 15, 2024) (*Settlement Notice*).

³ See 47 CFR § 73.872(e) (providing that settlement proposals may include time-share agreements).

⁴ *Id.* (specifying time-share agreements must comply with the requirements of paragraph (c) of section 73.872); 47 CFR § 73.872(c) (limiting time-sharing to no more than three MX applicants). See also *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, MB Docket No. 19-3, Report and Order, 34 FCC Rcd 12519, 12536, para. 40 & n.123 (2019) (clarifying that the three applicant limit applies to any time-sharing agreement incorporated in an overall settlement under 47 CFR § 73.872(e)).

⁵ The LPFM point system awards a maximum of six merit points, based on six criteria, with one point awarded under each criterion: (1) established community presence of at least two years; (2) commitment to originate local programming; (3) commitment to maintain a main studio; (4) commitment both to originate local programming and to maintain a main studio; (5) diversity of ownership; and (6) Tribal applicants serving Tribal lands. See 47 CFR § 73.872(b).

⁶ As explained in the *Settlement Notice*, although LPFM applicants may communicate and collaborate at any time on aggregating their points and entering into voluntary time-sharing agreements, time share proposals for the purpose (continued....)

Any time-share agreement must be in writing, signed by each time-share proponent, and satisfy the following requirements:

1. The proposal must specify the proposed hours of operation of each time-share proponent;
2. The proposal must not include simultaneous operation of the time-share proponents; and
3. Each time-share proponent must propose to operate for at least 10 hours per week.⁷

Finally, we remind applicants that when considering whether to enter into a settlement or time-share agreement with another MX applicant, the Commission is the official, and only, source for determining and awarding comparative points to MX applicants.⁸ Applicants that rely on unofficial point predictions from outside sources do so at their own risk, as such predictions are not binding on the Commission.

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of point aggregation cannot be submitted at this time. Any such time-share proposal may *only* be electronically submitted within 90 days after the release of the public notice announcing the tentative selectees in an MX group. *See Settlement Notice* at n.11.

⁷ 47 CFR 73.872(c)(1).

⁸ The Commission compares MX applications under the LPFM point system and tentatively selects the application(s) with the highest point total from each MX group for grant. *See* 47 CFR § 73.872(b).