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| FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554 FCC DIRECTIVE | Title | |
| | Policy for Use of Auction and Credit Reform Funds by the Federal Communications Commission | |
| | Directive Number: FCCINST 1006.2 | Effective Date: July 2015 |

1. **PURPOSE:** This directive sets forth the Federal Communications Commission’s (FCC or Commission) policies, procedures, and responsibilities relating to the availability, use, and apportionment of spectrum auction funds for necessary Commission auction program and credit reform program expenses. The principal intent of this document is to enable Fund Managers, Central Account Managers (CAM’s), and personnel involved in the authorized obligation and use of auction and credit reform funds as well as those involved with internal auditing, financial tracking, training, and reporting to have a clear and concise understanding of the policies and procedures for the use of these funds. In addition, this directive provides instructions for requesting and obligating these funds.
2. **SCOPE:** This directive applies to all Bureaus and Offices within the FCC.
3. **AUTHORITY:** The Communications Act of 1934, Section 309(j).
4. **BACKGROUND:** The Omnibus Budget Reconciliation Act of 1993 added Section 309(j) to the Communications of Act 1934, as amended, which established the Commission’s spectrum auction program. Among other things, section 309(j) gave the Commission express authority to employ competitive bidding procedures to choose among mutually exclusive applications for initial licenses. Section 309(j)(8) gave the Commission authority to use auction proceeds to fund the cost of developing and implementing the section 309(j) spectrum auction program. The uses of these funds are subject to the same legislative and budgetary controls as other Commission appropriations. This section was subsequently amended to authorize offsetting collections to remain available until expended. Additional requirements for reporting of auction’s operating costs in the FCC Annual Report were contained in the Balanced Budget Act of 1997 (P.L. 105-33).

In addition, subsection 6403(c)(2)(C) of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) directs the Commission authority to include in spectrum auction costs those incentive auction costs incurred by the Commission in conducting the reverse auction under subsection 6403(a)(1), conducting the evaluation of the broadcast television spectrum under subparagraph (A) of subsection 6403(b)(1), and making any reassignments or reallocations under subparagraph (B) of such subsection, in addition to

the costs incurred by the Commission in conducting the forward auction described in subsection 6403(c).

The Credit Reform Act of 1996 provided for every federal agency with debt management activities to report and manage the debt within certain guidelines, which are set forth in OMB Circular A-129. Additionally, Circular A-11 provides for agencies to obtain funding to accommodate certain reporting and managing activities associated with federal debt.

5. DEFINITIONS:

Appropriation. An authorization by act of Congress that permits Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation follows enactment of authorizing legislation. Appropriations represent limitations on amounts that agencies may obligate during the time specified in the respective appropriation act.

Budget Object Classification Code (BOCC). Each category of expense required to support a responsible center or the activities supervised by a (CAM). BOCCs are used by the Federal government to record its financial transactions according to the nature of service provided or received at the time obligations are incurred.

Commission-wide. Referring to activities that benefit the entire Commission.

Cost Organization. A four-digit number that identifies the organization to which a commitment, obligation, disbursement, or receipt transaction applies.

Fund Manager or Central Account Managers (CAM). The Fund Manager or CAM is the individual within the organization charged with budgeting, reporting, and financial management of the expenses of a responsible center.

Obligation. A binding agreement that will require an outlay or expenditure of funds, immediately or in the future. Obligations may not be incurred unless the appropriate approval is secured prior to the transaction taking place.

Project Code. A five-digit alphanumeric code that identifies the activity to which a commitment, obligation, disbursement, or receipt transaction applies.

6. POLICY: Standard practices shall be established and followed at the FCC to ensure compliance with the auction expenditure provisions of Section 309(j) of the Communications Act of 1934, as amended and the Middle Class Tax Relief and Job Creation Act of 2012. In accordance with these Acts, spectrum auction and incentive auction proceeds may be retained by the FCC as an offsetting collection to defray Commission expenses associated with the development and implementation of the auction program as described in the paragraph below and Section 8, "Categories of Auction Cost Recovery and Credit Reform Funds Use." The amount of each expense is to be justified by the CAM requesting the funds.

If expenditures for equipment or services are necessary in order to develop and implement the auction program and the expenditure is justified as described in this directive, the total amount may be funded from available auctions offsetting collections. Similarly, if the expenditure for equipment or services will increase as a consequence of the auction program and the increased expenditure is cost justified, an appropriate portion of the cost of the equipment or service may be funded from available auctions offsetting collections. Thus, the Commission may retain auction proceeds as an offsetting collection and use them to defray the costs of:

- A. establishing and defending rules, orders or policies for the auction program, including any internal rules and policies;
- B. planning and executing the actual auctions;
- C. recording and reporting transfer of funds associated with auctions;
- D. awarding auctioned licenses;
- E. ensuring the legitimacy of applicants and winners who apply for special auction incentives;
- F. explaining operation of the auctions program, its implementing rules, and reporting on its progress to the public-at-large, potential bidders and Congress;
- G. conducting research, including economic experiments, using internal staff and external consultants, to develop, evaluate, and test alternative auction designs and formats;
- H. conducting post-auction activities to ensure integrity of the auctions program (i.e. performing audits, inspections, and investigations); and
- I. all other personnel and other costs incurred as a necessary result of the auction program, including those that provide support to employees, projects and systems Commission-wide.

In addition, if administration expenditures are necessary to maintain the credit reform program, and the expenditure is justified as described in this directive, the total amount may be funded from available credit reform appropriations. The Commission may retain credit reform appropriations for the following administrative expenditures:

- A. the appropriation of administrative expense that are shared with non-credit programs;
- B. the cost of loan systems development and maintenance, including computer costs;
- C. the cost of monitoring credit program and private lenders for compliance with laws and regulations;
- D. the cost of all activities related to credit extension, loan servicing, write-off, and close out;
- E. the cost of collecting delinquent loans, except for the cost of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

- F. the costs of tracking regulatory requests, preparing decisional documents, and defending litigation relating to policies and rules governing the installment payment program for spectrum licenses assigned through competitive bidding;
- G. the costs related to offering at auction new licenses for spectrum associated with licenses that cancelled for non-payment of installment loans; and
- H. conducting credit reform activities to ensure integrity of the credit reform program (i.e. performing audits, inspections, and investigations).

7. RESPONSIBILITIES:

A. The Office of Managing Director (OMD) will:

Approve all Commission-wide requests for use of auction cost recovery and credit reform funds. Manage all aspects of budgetary and financial management of auction and credit reform funds.

B. The Chief Financial Officer (CFO) will:

1. Supervise and coordinate budgetary and financial management of the use of auction receipts to fund the auction program and the appropriation of funds to the credit reform programs.
2. Ensure that transactions are formulated and executed in accordance with the same federal rules and regulations that pertain to the Commission's appropriated funds.
3. Be responsible for approving all auction and credit reform fund justification related documentations that are originated from bureau or office.
4. Approve the use of auctions or credit reform funds within the CFO's organization.

C. The Budget Center will:

1. Compile and coordinate all auction operating and credit reform budget requests that are submitted to OMD as well as develop and execute the apportionment requests for auction and credit reform operating funds.
2. Evaluate on an annual basis, the general allocation splits between auction and appropriations, and revise as appropriate.
3. Issue all auction and credit reform allocations to the fund managers or CAM.
4. Verify and record the fiscal year auction and credit reform budget.
5. Coordinate all reprogramming requests.
6. Enter the auction and credit reform's operating budget in the FCC financial system and update the plan throughout the fiscal year.
7. Be responsible for reviewing and approving all auction fund and credit reform requests on behalf of the Bureau's and Office's for the adequacy of the justification and consistency with the original allocation provided.

8. Monitor the execution of Commission-wide auction expenses by tracking all auction related obligations to ensure accuracy in the Auction Expenditure Report annually submitted to Congress as required by statute.
- D. The Financial Systems Operation Group (FSOG) will:
1. Coordinate the flow of documents between the fund managers or CAM to ensure obligations are recorded in the appropriate financial management system.
 2. Assist with recording all auction and credit reform obligations in the Commission's financial system, including space rent, travel, training, credit card purchases, training, and payment of telephone bills.
 3. Issue reports concerning the Commission's use of the auction and credit reform funds and the availability of those funds.
- E. The Wireless Telecommunications Bureau (WTB) will:
1. Be responsible for implementing the competitive bidding authority and incentive auctions authority for spectrum auctions.
- F. The Media Bureau (MB) and the Office of Engineering and Technology (OET) will:
1. Be responsible for implementing the evaluation of the broadcaster television spectrum and making any reassignments or reallocations.
- G. The Information Technology Center (ITC) will:
1. Serve as the management contact for all requests for auction and credit reform funds that will be used for information technology (IT) services or equipment to support the auction program.
- H. The Administrative Operations (AO) Group will:
1. Oversee many of the non-IT-related costs needed to support the auction and credit reform program, such as rent, utilities, security services, housekeeping staff, copier services, and the purchase of goods and services.
- I. The Enterprise Acquisitions Center (EAC) will:
1. Oversee the acquisition of most auction-related goods and services, plus items related to the credit reform use by the Commission.
 2. Retain the contract, and contract solicitations (RFPs) reflecting the use of auction and credit reform proceeds.
 3. Record obligations in the Commission's financial system.

J. Contracting Officers (COs) will:

1. Plan and negotiate contracts on the behalf of the FCC with providers of goods and services.
2. Ensure that the contractual requirements are met in a manner that is most beneficial to the government in terms of price and other relevant factors.

K. Contracting Officer Representatives (CORs) will:

1. Establish the requirements for the goods and services to be acquired as well as managing the contract.
2. Assist the Fund Manger or CAM in the documentation of the funding justification and annual cost estimate of their responsible contracts.

L. Fund Managers or CAMs will:

1. Initiate the approval process by requesting Auction Cost Recovery Funds or Credit Reform Funds for a specific Bureau /Office.

M. The Inspector General will:

1. Conduct, supervise and coordinate audits, inspections and investigations.
2. Keep the Chairman and Congress fully informed concerning any fraud and other serious problems, abuse, and deficiencies related to the auctions and credit reform programs.

8. OFFICE OF MANAGEMENT & BUDGET (OMB) AUTHORIZATION TO USE FUNDS:

A. OMB Current Year Operating Budget Request. OMD shall identify and submit the auction and credit reform operating budgets and apportionment requests (SF-132) to the OMB for funding all auction operating requirements for each upcoming fiscal year beginning on October 1. The apportionment requests for both auctions and credit reform funding shall be made in accordance with OMB requirements. The budget apportionment request from the Commission to OMB shall be developed using data from fund managers and CAMs, including information from the National Finance Center (NFC) payroll system, and the Commission's financial system.

B. Transfer of Funds Following Apportionment. The CFO, in conjunction with the Budget Center, shall request through the Financial Operations Groups that auction receipts deposited into the Treasury be transferred to the Commission's Operating Account for Auctions on a quarterly basis consistent with requirements.

After the specified auction receipts have been transferred by the Department of Treasury to the current year Auctions Operating Budget (Fund X54), the Budget Center shall establish operating budget allocations for each Fund Manager or CAM. Fund Managers and CAMs cannot exceed the allowances made under any circumstances without CFO approval. Authorized obligations shall be charged directly against Fund X54 and Credit Reform (Fund CR2), in the financial system fund account established to fund auction and credit reform program costs. Operating requirements that serve multiple purposes must be funded from appropriated, auctions funds, and/or credit reform funds. These “split funded” items and the distribution of cost must be fully justified by the bureau, office and CAM with documented rationale for the percentage split. If there is any uncertainty or question about the amount of auction or credit reform funds to use on any obligation the CFO should be consulted.

- C. Carryover Authority. Under Section 309(j), as amended, unobligated auction receipts retained in the Commission’s appropriation accounts at the end of a current fiscal year may be forwarded into the next fiscal year through the transfer of current year balances into the next year or “no-year” accounts. Such funds may be used to prevent interruption of auction support activities during OMB’s review of the Commission’s requested auction operating plan for the new fiscal year. Operating funds must be apportioned by OMB and moved by Treasury to the proper account prior to any obligation of funds. This practice of ensuring sufficient funds are available over the transition of the fiscal year is still required for the credit reform administration.

Note: Beginning with FY 2014, OMB approved the auctions program account (Fund X54) as no-year funds. As result, unobligated funds at the end of the fiscal year in Fund X54 remains in the account until expended. There is no longer the need to carryover the unobligated funds to subsequent fiscal years.

- D. OMB Budget Year Estimates. The FCC’s annual appropriation based budget request is due to OMB in September each year. OMD’s proficiency in compiling estimates of Commission appropriation needs are highly dependent on the anticipated needs for auction and credit reform funding. These estimates are dependent on the level of information and cooperation provided by the bureaus, offices and CAMs that use auction and credit reform funds. The process involves a review of current year expenditures, annualization and adjustments for inflation, and then consideration of new initiatives within available funding. OMD then provides summaries and the adequately justified request from the bureaus and offices to the Chairman for approval. Once approved, the budget package is provided to OMB. OMB then evaluates this request and determines what amount should be included in the President’s Budget that is then transmitted to Congress. After the FCC’s appropriation amount is approved by Congress and signed by the President, an apportionment is submitted by the Commission to OMB and approved by OMB.

9. CATEGORIES OF AUCTION COST RECOVERY AND CREDIT REFORM FUNDS

USE: Auction and credit reform operating expenditures shall be divided into two main categories of auction and credit reform-related expenses: (1) Direct Program Costs; and (2) Commission-wide Program Support Costs.

A. Direct Program Expenditures. Direct auction program expenses are those that directly support the auction and credit reform program. These auction-related costs tend to be items that are directly controlled by WTB and MB, although certain Investment Technology (IT) and Financial Operations (FO) expenses have been considered direct costs in the past. The credit reform-related costs tend to be items that are directly controlled by the WTB, Office of General Counsel (OGC) or FO. To qualify, an expense must be directly and solely related to the policy development, implementation and execution of the auction program or credit reform, such as:

1. Employee salaries and benefits;
2. Computer and telecommunications equipment, software, and services;
3. The conduct and maintenance of all technical auction operations, including the planning, installation, operation, and maintenance of related information technology systems and telecommunications equipment hardware and software;
4. All network automation requirements necessary to link the Commission with auction participants and others involved with the collection and management of auction funds;
5. Contracts providing support to the auction and credit reform programs;
6. Travel necessary to conduct audits to ensure the integrity of one or more auctions and credit reform;
7. Travel and seminar costs to educate the public and government (both domestic and foreign) regarding auctions;
8. Training and travel that is necessary to educate FCC staff regarding collections, auction theory and other issues associated with auctions;
9. Equipment and travel necessary to identify potential spectrum to auction;
10. Office supplies and software, to address on-going needs of personnel assigned to support auction activities prior to, during, and after each auction and credit reform;
11. Investigation to ensure the integrity of the auction programs, including non-federal legal support to resolve bankruptcy litigation and matters related to installment loans;
12. Other costs directly required to support the auctions program;
13. Legal costs through OGC associated with the auction and credit reform programs; and
14. FO contracts associated with the auction and credit reform programs.

- B. Commission-wide Program Support Costs. This category is made up of indirect (overhead) costs that support all Commission activities, such as:
1. Overhead costs that support the day-to-day operation of the Commission, like human resources, information systems technology (software, hardware, support contracts, telecommunications), financial operations, administrative services (shared facilities rent, guard services, contract services, utilities), general counsel, inspector general, Office of Secretary, media relations, strategic planning and policy, and performance evaluation and record management; and
 2. Other functions that support management of the Commission as whole.
10. INDIRECT COST ALLOCATION METHODS: Indirect costs shall be allocated using one of the following methods for auction cost recovery, as appropriate:
- A. Full Time Employee (FTE) Employee Rate (Generally Allocated). This rate is derived from the percentage of actual hours worked, including a proportionate share of the employee's indirect hours (leave hours) that were used in support of the auction and credit reform programs as recorded in the Commission's financial system. The FTE Employee rate will normally be applied to costs for items that benefit Commission-wide allocation to the Auction Cost Recovery. Cost items that are allocated by the FTE rate include: Commission-wide information systems, guard service, administrative facility services, supplies, furniture, equipment, and human resources training activities. Indirect costs to be allocated to the auction program using this method shall be determined by calculating a ratio based on the proportion of FTEs devoted to supporting the auction's program relative to the total number of FTEs Commission-wide. The Commission has determined from historical data that 14% is an acceptable rate. The Budget Center will review and evaluate this rate on an annual basis and notify bureaus, offices and CAMs if the rate is to be adjusted for any fiscal year. Once the FTE ratio for indirect costs (often referred to as the overhead percentage) has been established for the budget fiscal year, it should not be changed unless a very compelling case can be made, *e.g.*, it is determined that the allocation formula was erroneous.
- B. Square Footage Percentage Split. This percentage split is derived from calculating the square footage used by either appropriation or auctions funded activities and dividing it by the Commission's total square footage. Cost items that are typically allocated by the square footage percentage split include rent and utilities for the Gettysburg office. Under this calculation, the auctions fund percentage split is equal to auctions funded activities divided by the total square footage. When added, the appropriations and auctions percentages should equal 100%. The square footage percentage split will be developed by OMD-Administration Operations, with approval of the Budget Center.

activities and dividing it by the Commission's total square footage. Cost items that are typically allocated by the square footage percentage split include rent and utilities for the Gettysburg office. Under this calculation, the auctions fund percentage split is equal to auctions funded activities divided by the total square footage. When added, the appropriations and auctions percentages should equal 100%. The square footage percentage split will be developed by OMD-Administration Operations, with approval of the Budget Center.

C. Special Allocation Rate. This represents an allocation method that has been proven more appropriate for a particular cost than the aforementioned methods. When it is determined that another method would be better suited in allocating the cost to the Auction Cost Recovery Fund or Credit Reform Fund, the COR, Fund Manager, or CAM will be responsible for obtaining the approval of the Budget Center and the CFO.

10. ETHICAL CONDUCT: To ensure that every citizen can have complete confidence in the integrity of the Commission, each Commission employee shall adhere to the Commission's Code of Conduct ("Code of Conduct") set forth in the Policy for Detecting and Deterring Fraud and Promoting Ethical Conduct within the Federal Communications Commission ("Anti-Fraud Directive") with regard to apportioning and obligating spectrum auction funds for the Commission's auction and credit reform program expenses as contained in this Directive. The Code of Conduct is designed to deter wrongdoing and promote: (1) full, fair, accurate, timely, and understandable disclosure in reports and documents; (2) compliance with applicable governmental laws, rules, and regulations; and (3) the prompt internal reporting of violations of the Code of Conduct to an appropriate person or persons identified herein. All employees shall report instances of suspected irregularities to the Commission's Office of Inspector General in accordance with the Commission's Anti-Fraud Directive.

11. EFFECTIVE DATE AND IMPLEMENTATION: This directive is effective immediately and shall be implemented promptly upon distribution.



Jon Wilkins
Managing Director