

FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554 FCC DIRECTIVE	Title	
	Policy for Use of Auction Funds	
	Directive Number: FCCINST 1006.3	Effective Date: February 2022

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 auctions funds for necessary Commission auctions 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 auctions program 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. 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 auctions 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 auctions 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.

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 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).

More recently, the 2018 Consolidated Appropriations Act, P.L. 115-141, directed the Commission to make payments from the TV Broadcaster Relocation Fund: (a) to television translator stations or low power television stations, to reimburse costs reasonably incurred on or after January 1, 2017, in order for such station to relocate its television service from one channel to another or otherwise modify its facility as a result of the reorganization of broadcast television spectrum; (b)

to broadcast television licensees and multichannel video programming distributors (MVPDs), to reimburse reasonably incurred costs as a result of the reorganization of broadcast television spectrum; and (c) to FM broadcast stations, to reimburse costs reasonably incurred for facilities necessary for such station to reasonable minimize disruption of service as a result of the reorganization of broadcast television spectrum.

In addition, the Consolidated Appropriations Act, 2018 included special provisions that address the pressing need for additional spectrum for wireless broadband, including both mobile and fixed services. These provisions include responsibilities for the FCC relating to the availability of spectrum for commercial use. More specifically, Section 603 of Title VI of Division P requires that no later than December 31, 2022, the Commerce Secretary, “working through the [National Telecommunications and Information Administration] (NTIA), and the Commission shall identify a total of at least 255 [MHz] of Federal and non-Federal spectrum for mobile and fixed wireless broadband use.” Furthermore, section 605 of Title VI of Division P specifically requires the Commission to evaluate “the feasibility of allowing commercial wireless services, licensed or unlicensed, to use or share use of the frequencies between 3700 [MHz] and 4200 [MHz].”

Also, in granting the FCC the authority to conduct spectrum auctions, pursuant to 47 USC 309(j)(3)(e) Congress directed that the Commission shall include safeguards to protect the public interest in the use of the spectrum and shall seek to promote certain objectives. One of the objectives for the FCC under Section 309(j)(3)(e)(ii) is to: "ensure that, in the scheduling of any competitive bidding . . . an adequate period is allowed . . . after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services."

3. CANCELLATION: This directive supersedes FCCINST 1006.2, dated July 2015.
4. SCOPE: This directive applies to all Bureaus and Offices within the FCC.
5. AUTHORITY: 47 U.S.C. §§ 309 – 309a.
6. 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 Central Account Manager (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.

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

7. 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, the Spectrum Pipeline Act of 2015, and the 2018 Consolidated Appropriations Act. 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 10, “Categories of Auction Cost Recovery 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 auction offsetting collections. Similarly, if the expenditure for equipment or services increases 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 auctions program, including any internal rules and policies;
- B. Planning and executing the actual auctions;
- C. Recording and reporting transfer of funds associated with the auctions program;
- 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, implementing its 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);
- I. All other personnel and other costs incurred as a necessary result of the auctions program, including those that provide support to employees, projects and systems Commission-wide; and
- J. Administer payments from the TV Broadcaster Relocation Fund pursuant to the 2018 Consolidated Appropriations Act, P.L. 115-141, to: (a) television translator stations or low power television stations, to reimburse costs reasonably incurred on or after January 1, 2017, in order for such station to relocate its television service from one channel to another or otherwise modify its facility as a result of the reorganization of broadcast television spectrum; (b) broadcast television licensees and MVPDs, to reimburse reasonably incurred costs as a result of the reorganization of broadcast television spectrum; and (c) FM broadcast stations, to reimburse costs reasonably incurred for facilities necessary for such station to reasonable minimize disruption of service as a result of the reorganization of broadcast television spectrum, with administrative costs incurred by the Commission in making such reimbursements paid through auctions proceeds specifically designated for Commission salaries and expenses.

8. RESPONSIBILITIES:

- A. The Office of the Managing Director (OMD) will:
 - 1. Approve all Commission-wide requests for use of auction cost recovery funds. Manage all aspects of budgetary and financial management of auctions program 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 auctions program.
 - 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 fund justification related documentation that is originated from Bureaus and Offices.

4. Approve the use of auctions program funds within the CFO's organization.

C. The Budget Center will:

1. Compile and coordinate all auction operating budget requests that are submitted to OMD as well as develop and execute the apportionment requests for auctions program operating funds.
2. Evaluate on an annual basis, the general allocation splits between auction and appropriations, and revise as appropriate.
3. Issue all auction allocations to the fund managers or CAMs.
4. Verify and record the fiscal year auction budget.
5. Coordinate all reprogramming requests.
6. Enter the auctions program operating budget in the FCC's financial management system and update the plan throughout the fiscal year, as necessary.
7. Be responsible for reviewing and approving all auctions program fund requests on behalf of the Bureaus and Offices 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 Justification 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 CAMs to ensure obligations are recorded in the Commission's financial management system.
2. Assist with recording all auctions program obligations in the Commission's financial management 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 funds and the availability of those funds.

E. The Office of Economics and Analytics (OEA) will:

1. Be responsible for implementing the competitive bidding authority and incentive auctions authority for spectrum auctions program.

2. Manage FCC auctions in support of and in coordination with the FCC's Bureaus and Offices.
- F. The Wireless Telecommunications Bureau (WTB) will:
1. Support the spectrum auctions process through the development and management of electronic tools, systems, programs, and related technology.
- G. The Media Bureau (MB) will:
1. Be responsible for implementing the evaluation of the broadcaster television spectrum and making any reassignments or reallocations.
- H. The Office of Engineering and Technology (OET) will:
1. Support MB in the evaluation of the broadcaster television spectrum and any reassignments or reallocations.
 2. Provide engineering analysis and technical support necessary for implementing the competitive bidding authority and incentive auctions authority for the spectrum auctions program.
 3. Support the spectrum auctions process through the development and management of electronic tools, systems, programs and technology related to equipment authorization, radio frequency (RF) and propagation modeling, geospatial mapping, and measurement necessary to implement competitive bidding authority.
- I. The Information Technology Center (ITC) will:
1. Serve as the management contact for all requests for auction funds that will be used for IT services or equipment to support the auctions program.
- J. The Administrative Operations (AO) Group will:
1. Oversee many of the non-IT-related costs needed to support the auctions program, such as rent, utilities, security services, housekeeping staff, copier services, and the purchase of goods and services.
- K. The Enterprise Acquisition Center (EAC) will:
4. Oversee the acquisition of most auction-related goods and services used by the Commission.
 5. Retain the contract, and contract solicitations (RFPs) reflecting the use of auction proceeds.

6. Record obligations in the Commission's financial management system.

L. Contracting Officers (COs) will:

1. Plan and negotiate contracts on the behalf of the Commission 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.

M. 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 Manager or CAM in the documentation of the funding justification and annual cost estimate of their responsible contracts.

N. Fund Managers or CAMs will:

1. Initiate the approval process by requesting auction cost recovery funds for a specific Bureau or Office.

O. The Office of 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 auction program.

9. PROCESS FOR OFFICE OF MANAGEMENT AND BUDGET (OMB) AUTHORIZATION TO USE FUNDS:

A. Apportionment Request to OMB. OMD shall identify and submit the auction operating budgets and apportionment requests (SF132) to OMB for funding all auctions program operating requirements for each upcoming fiscal year beginning on October 1. The apportionment requests for auction funding shall be made in accordance with OMB requirements.

B. Transfer of Funds Following Approved Apportionment. The Budget Center, in conjunction with the CFO, shall request through the Financial Statement and Reporting Group (FSRG) that earned auction receipts deposited into the Commission's Auction Treasury account be transferred to the Commission's Operating Account for Auctions on an annual fiscal year basis consistent with respective appropriations.

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

- C. Carryover Authority. Under Section 309(j), as amended, unobligated auctions program funds retained in the Commission’s appropriations account at the end of each fiscal year remain in the appropriated budget year until obligated and expended. Such funds may be used to prevent interruption of auctions program activities during OMB’s review of the Commission’s requested auctions program funding plan for the new and subsequent fiscal years. Operating funds must be apportioned by OMB and moved by Treasury to the proper account prior to any obligation of funds.

- 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 the Commission’s appropriation needs are highly dependent on the anticipated needs for auctions program funding. These estimates are dependent on the level of information and cooperation provided by the Bureaus, Offices, and CAMs that use auction funds. The process involves a review of current year expenditures, annualization and adjustments for inflation, and then consideration of new initiatives as authorized by the Managing Director. OMD then provides summaries of each adequately justified request from the Bureaus and Offices to the Office of 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. The approved amount is communicated from OMB to the FCC through the Passback document. After the FCC’s estimated request is appropriated by Congress and signed by the President, an apportionment is submitted by the Commission to OMB for approval to obligate the funds appropriated.

10. CATEGORIES OF AUCTION COST RECOVERY FUNDS USE:

Auctions program operating expenditures shall be divided into two main categories of auction expenses: Direct Program Costs and Commission-wide Program Support Costs.

- A. Direct Program Costs. Direct auctions program expenses are those that directly support the auctions program. These auction-related costs are items that are directly controlled by OEA, WTB, and MB; in addition, certain IT systems as well as other IT and Financial Operations expenses have been considered direct costs in the past. To qualify, an expense must be directly and solely related to the policy development, implementation, and execution of the auctions program, 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 IT 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 auctions program funds;
 5. Contracts providing support to the auctions program;
 6. Travel necessary to conduct audits to ensure the integrity of one or more auctions;
 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 the auctions program;
 9. Equipment and travel necessary to identify and/or negotiate positions concerning potential spectrum to auction and to maximize the value of such spectrum after auction;
 10. Office supplies and software, to address on-going needs of personnel assigned to support auctions program activities prior to, during, and after each auction;
 11. Investigation to ensure the integrity of the auctions program, including nonfederal 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 Office of General Counsel associated with the auctions program; and
 14. Financial Operations contracts associated with the auctions program.

- B. Commission-wide Program Support Costs. This category is made up of indirect (overhead) costs that support all Commission-wide activities, such as:
1. Overhead costs that support the day-to-day operation of the Commission, like human resources, IT systems (software, hardware, support contracts, telecommunications), financial operations, administrative services (shared facilities rent, guard services, contract services, utilities), Office of General Counsel, Office of Inspector General, Office of Secretary, Office of Media Relations, and OMD-Performance Evaluation and Record Management; and
 2. Other functions that support management of the Commission as whole.

11. 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 program 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 auctions 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 reviews and evaluates this rate on an annual basis and notifies 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 auction 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 auction 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, in conjunction with 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 auctions fund, the COR, Fund Manager, or CAM will be responsible for obtaining the approval of the Budget Center and the CFO.

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

Mark Stephens
Managing Director