

§ 301.115

risks and other relevant issues while assessing the reasonableness of costs and timelines in the Federal entity's Transition Plans so long as such consultations are disclosed in the Technical Panel's report.

(c) *Administrative support.* NTIA shall provide the Technical Panel with the administrative support services necessary to carry out its duties under this part.

§ 301.115 Spectrum Pipeline Plans.

(a) *Submission of Spectrum Pipeline Plan.* A Federal Entity that requests payment from OMB as provided in section 118(g) of the NTIA Organization Act (47 U.S.C. 928(g)) must submit a plan to the Technical Panel for approval.

(b) *Contents of Spectrum Pipeline Plan.* A Spectrum Pipeline Plan submitted in accordance with this section must describe activities for research and development, engineering studies, economic analyses, activities with respect to systems, or other planning activities intended to improve the efficiency and effectiveness of the spectrum use of Federal Entities in order to make available frequencies for reallocation for non-Federal use or shared Federal and non-Federal use, or a combination thereof, for auction in accordance with such reallocation. Activities with respect to systems that improve the efficiency or effectiveness of the spectrum use of Federal Entities shall include:

- (1) Systems that have increased functionality or that increase the ability of a Federal Entity to accommodate spectrum sharing with non-Federal entities;
- (2) Systems that consolidate functions or services that have been provided using separate systems; or
- (3) Non-spectrum technology or systems.

(c) *Review by Technical Panel—(1) Deadline for approval.* Not later than 120 days after a Spectrum Pipeline Plan has been submitted to the Technical Panel in accordance with this section, the Technical Panel shall approve or disapprove such plan.

(2) *Criteria for Review.* As part of its review, the Technical Panel shall consider whether:

47 CFR Ch. III (10–1–16 Edition)

(i) The activities that the Federal Entity will conduct with the payment will:

(A) Increase the probability of relocation from or sharing of Federal spectrum;

(B) Facilitate an auction intended to occur not later than 8 years after the payment; and

(C) Increase the net expected auction proceeds in an amount not less than the time value of the amount of the payment.

(ii) The transfer will leave sufficient amounts in the Spectrum Relocation Fund for the other purposes of such fund.

[81 FR 3338, Jan. 21, 2016]

§ 301.120 Reports on agency Transition Plans.

(a) *Deadline for initial report.* Not later than thirty (30) days after the receipt of a Federal Entity's Transition Plan submitted in accordance with applicable procedures set forth in Annex O of the NTIA Manual, the Technical Panel shall submit to NTIA and to such Federal Entity the Technical Panel's report on the sufficiency of the Transition Plan.

(b) *Scope and content of initial report.* The Technical Panel's report shall include:

(1) A finding as to whether the Federal Entity's Transition Plan includes the information required by the applicable provisions set forth in Annex O of the NTIA Manual;

(2) An assessment of the reasonableness of the proposed timelines contained in the Federal Entity's Transition Plan;

(3) An assessment of the reasonableness of the estimated relocation or sharing costs itemized in the Federal Entity's Transition Plan, including the costs identified by such plan for any proposed expansion of the capabilities of the Federal Entity's system; and

(4) A conclusion, based on the finding and assessments pursuant to paragraphs (b)(1) through (3) of this section, as to the sufficiency of the Transition Plan.

(c) *Insufficient Transition Plan.* In the event the Technical Panel's initial report concludes that the Federal Entity's Transition Plan is insufficient pursuant to paragraph (b) of this section, the report shall also include a description of the specific information or modifications that are necessary for the Federal entity to include in a revised Transition Plan.

(d) *Revised plan.* If the Technical Panel finds the plan insufficient, the applying Federal Entity has up to 90 days to submit to NTIA and the Technical Panel a revised plan.

(e) *Report on revised agency Transition Plans.* (1) Deadline for Supplemental Report. Not later than thirty (30) days after the receipt of a Federal Entity's revised Transition Plan submitted after an initial or revised plan was found by the Technical Panel to be insufficient pursuant to paragraph (c) of this section, the Technical Panel shall submit to NTIA and to such Federal Entity the Technical Panel's supplemental report on the sufficiency of the revised Transition Plan.

(2) Scope and content of supplemental report. The Technical Panel's supplemental report on the revised Transition Plan shall include:

(i) A finding as to whether the Federal Entity's revised Transition Plan includes the necessary information or modifications identified in the Technical Panel's initial report pursuant to paragraph (b)(1) of this section;

(ii) A reassessment, if required, of the reasonableness of the proposed timelines contained in the Federal Entity's revised Transition Plan;

(iii) A reassessment, if required, of the reasonableness of the estimated relocation or sharing costs itemized in the Federal Entity's revised Transition Plan; and

(iv) A conclusion, based on the finding and reassessments pursuant to paragraphs (e)(2)(i) through (iii) of this section, as to the sufficiency of the revised Transition Plan.

§ 301.130 Technical assistance to Dispute Resolution Boards.

Upon request of a Dispute Resolution Board convened pursuant to subpart C of this part, the Technical Panel shall

provide the board with such technical assistance as requested.

Subpart C—Dispute Resolution Boards.

§ 301.200 Requests to resolve disputes.

(a) *Non-Federal User requests*—(1) *In general.* A Non-Federal User may submit a written request to NTIA in accordance with this section to establish a Dispute Resolution Board (hereinafter "board") to resolve an actual, unresolved dispute that has arisen between the Non-Federal User and a Federal Entity regarding the execution, timing, or cost of the Transition Plan submitted by the Federal Entity pursuant to section 113(h)(1) of the NTIA Organization Act (47 U.S.C. 923(h)(1)).

(2) *Negotiation, mediation and arbitration.* Any dispute arising out of the execution, timing, or cost of the Transition Plan submitted by a Federal Entity must be raised, in the first instance, with the officer or employee of the Federal Entity identified in the Transition Plan as being responsible for the relocation or sharing efforts of the entity and who is authorized to meet and negotiate with Non-Federal Users regarding the transition. To the extent that the parties cannot resolve such dispute on an informal basis or through good faith negotiation, they are strongly encouraged to use expedited alternative dispute resolution procedures, such as mediation or non-binding arbitration, before submitting a written request in accordance with this section to establish a board.

(3) *Eligibility to request the establishment of a board.* To submit a request to establish a board, a Non-Federal User must satisfy the definition of such term in § 301.20 of this part and the dispute must pertain to the execution, timing, or cost of the Transition Plan associated with the license or licenses subject to the winning bid or bids.

(4) *Contents of request.* In order to be considered by a board under this subpart, a request must include:

(i) Specific allegations of fact regarding the Federal Entity's deviation from the Transition Plan sufficient to support the requested resolution of the dispute. Such allegations of fact, except for those of which official notice