

Office of the Assistant Secretary, National Telecommunications and Information Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

[81 FR 3338, Jan. 21, 2016]

Subpart B—Technical Panel

§ 301.100 Membership.

(a) *Technical Panel membership.* The Technical Panel established by section 113(h)(3)(A) of the NTIA Organization Act (47 U.S.C. 923(h)(3)(A)) shall be composed of three (3) members, to be appointed as follows:

(1) One member to be appointed by the Director of OMB;

(2) One member to be appointed by the Assistant Secretary, with the approval of the Secretary of Commerce; and

(3) One member to be appointed by the Chairman of the Commission.

(b) *Qualifications.* (1) Each member of the Technical Panel shall be a radio engineer or a technical expert.

(2) The Assistant Secretary, in consultation with the Director of OMB and the Chairman of the Commission, may impose or suggest additional qualifications for one or more members of the Technical Panel as are necessary pursuant to section 113(g)(6) of the NTIA Organization Act (47 U.S.C. 923(g)(6)), including, but not limited to, the following:

(i) The member must have the appropriate and current security clearances to enable access to any classified or other sensitive information that may be associated with or relevant to agency Transition Plans;

(ii) The member should be a Federal employee as defined in 5 U.S.C. 2105(a) or a Special Government Employee as defined in 18 U.S.C. 202(a); and

(iii) The member should have the necessary expertise to perform his or her duties.

(c) *Term.* The term of a member of the Technical Panel shall be eighteen (18) months, and no individual may serve more than one (1) consecutive term.

(d) *Vacancies.* (1) Any member of the Technical Panel appointed to fill a vacancy occurring before the expiration of the term for which the member's

predecessor was appointed shall be appointed only for the remainder of that term.

(2) A member of the Technical Panel may serve after the expiration of that member's term until a successor has taken office.

(3) A vacancy shall be filled in the manner in which the original appointment was made pursuant to paragraph (a) of this section.

(e) *Compensation.* (1) No member of the Technical Panel shall receive compensation for service on the Technical Panel.

(2) If any member of the Technical Panel is an employee of the agency of the official that appointed such member to the Technical Panel pursuant to paragraph (a) of this section, compensation in the member's capacity as a Federal employee shall not be considered compensation under paragraph (e)(1) of this section.

§ 301.110 Organization and operations.

(a) *Chair.* (1) The member of the Technical Panel appointed by the Assistant Secretary pursuant to § 301.100(a) of this subpart shall be the Chair of the Technical Panel.

(2) The Chair of the Technical Panel may designate a Vice-Chair who may act as Chair in the absence of the Chair.

(b) *Procedures of and actions by the Technical Panel.* (1) The Technical Panel may meet either in person or by some mutually agreeable electronic means to take action on the reports required by § 301.120 of this subpart or in providing technical assistance to a Dispute Resolution Board pursuant to § 301.130 of this subpart.

(2) Meetings of the Technical Panel may be convened as necessary for the efficient and timely dispatch of business by either NTIA or the Chair of the Technical Panel to consider reports and any action thereon and to provide technical assistance to a Dispute Resolution Board pursuant to § 301.130 of this subpart.

(3) The Technical Panel shall endeavour to reach its decisions unanimously. Absent unanimous consent of all three members of the Technical Panel, a concurring vote of a majority

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of the total panel membership constitutes an action of the Technical Panel.

(4) A majority of the Technical Panel members constitutes a quorum for any purpose.

(5) The Chair of the Technical Panel, in consultation with the other members, may adopt additional policies and procedures to facilitate the efficient and timely dispatch of panel business.

(6) The Technical Panel may consult Federal entity subject matter experts as necessary regarding Federal mission 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;

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(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:

(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.

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§ 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;