

(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

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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 may be taken by the board, shall be supported by affidavits of a person or persons having personal knowledge thereof;

(ii) A summary of the parties' prior efforts and attempts to resolve the dispute, including negotiation, mediation, or non-binding arbitration efforts pursuant to paragraph (a)(2) of this section;

(iii) A detailed description of each of the claims upon which a resolution is sought by and available to the Non-Federal User;

(iv) A detailed description of the requested resolution of the dispute;

(v) The requestor's contact information and a certificate of service showing to whom and when an identical copy of the request was provided to the Federal Entity; and

(vi) A meeting proposal setting forth the proposed date, time, and place (including suggested alternatives) for a meeting with the Federal Entity and the board, the date for which shall be no later than fifteen (15) days from the date the request is sent to NTIA.

(vii) A self-certification that the Non-Federal User is a licensee authorized to use Eligible Frequencies or winning bidder in an FCC auction for the Eligible Frequencies.

(5) *Federal Entity response.* A Federal Entity has the right to submit a response to the board prior to the date of the scheduled meeting. If so directed by the Chair of the board, the Federal Entity shall submit a written response to the Non-Federal User's request.

(b) *Federal Entity requests—(1) In general.* An Eligible Federal Entity may submit a written request in accordance with this section to establish a Dispute Resolution Board to resolve an actual dispute that has arisen between the Federal Entity and a Non-Federal User regarding the execution, timing, or

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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) *Eligibility to request the establishment of a board.* To submit a request to establish a board, a Federal Entity, as such term is defined in §301.20 of this part, must have submitted a Transition Plan pursuant to section 113(h)(1) of the NTIA Organization Act (47 U.S.C. 923(h)(1)) and the dispute must pertain to the execution, timing, or cost of such plan in connection with that Non-Federal User's license or licenses to use the Eligible Frequencies.

(3) *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 factors hindering or affecting the plan's execution, timing, or cost sufficient to support the requested resolution of the dispute. Such allegations of fact, except for those for which official notice may be taken by the board, shall be supported by affidavits of a person or persons having personal knowledge thereof;

(ii) A summary of the parties' prior efforts and attempts to resolve the dispute;

(iii) A detailed description of each of the claims upon which a resolution is sought by and available to the Federal Entity;

(iv) A detailed description of the requested resolution of the dispute;

(v) The requestor's contact information and a certificate of service showing to whom and when an identical copy of the request was provided to the Non-Federal User; and

(vi) A meeting proposal setting forth the proposed date, time, and place (including suggested alternatives) for a meeting with the Non-Federal User and the board, the date for which shall be no later than fifteen (15) days from the date the request is sent to NTIA.

(4) *Non-Federal User response.* A Non-Federal User has the right to submit a response to the board prior to the date of the scheduled meeting. If so directed by the Chair of the board, the Non-Federal User shall submit a written response to the Federal Entity's request.