February 25, 2022

Repack Reimbursement Updates:

FCC Announces 100% Allocation and Forthcoming Site Visits;

Invoices Due March 22, 2022, for Stations Repacked in

Phases 6–10

By [Public Notice](https://docs.fcc.gov/public/attachments/DA-22-191A1.pdf) (the “Notice”) issued yesterday, the Incentive Auction Task Force and Media Bureau announced a final allocation from the TV Broadcaster Relocation Fund, increasing from 92.5% to 100% the allocation for the verified expenses of all stations seeking repack reimbursement. At the same time, the Notice announced that the FCC will soon begin deploying third-party contractors to “visit the facilities of a statistically valid and random sample of Fund participants to validate the existence and operational status of post-transition broadcast equipment for which the entity received reimbursement.”

*100% Reimbursement Allocation*. As broadcasters are already aware, in order to ensure equitable funding availability to all stations seeking reimbursement for qualifying expenses incurred due to the now-concluded spectrum repack, thus far the FCC has been allocating reimbursement funding in tranches and in lesser amounts than would be necessary for all entities seeking reimbursement to obtain 100% reimbursement. However, the Notice indicates that the FCC now has “sufficient data . . . to reasonably extrapolate that there are sufficient funds available to meet the total cost of the program,” and therefore is increasing the allocation amount from 92.5% to 100% of each entity’s verified reimbursement estimates. Once the final allocation is made, broadcasters will be able to view their individual allocations in the FCC’s CORES Incentive Auction Financial Module pursuant to the procedures outlined in an earlier FCC Public Notice, available here: <https://docs.fcc.gov/public/attachments/DA-17-282A1.pdf>. Broadcasters may also wish to consult the CORES Incentive Auction Financial Module User Manual for more information, available here: <https://www.fcc.gov/sites/default/files/cores_ia_financial_module_user_guide.pdf>.

*Site Visits*. Back when the FCC first adopted rules governing the spectrum repack, the FCC announced that it would implement certain measures—including post-construction site visits—in an effort to prevent “fraud, waste, and abuse” related to the repack reimbursement fund. The Notice indicates that: such site visits will begin next month, March 2022, and last throughout the rest of the year; not all entities will be visited; and entities will be chosen for a visit either at random or specifically due to their unique facts or circumstances. The Notice anticipates “that each site visit will consist of one or two contractor staff who will spend one or two days on site to physically inspect the facility and equipment. While on site, the contractor staff also will verify the existence and functionality of equipment listed in the entity’s Reimbursement Form.” The contractor will subsequently report its findings to the FCC.

The Notice further indicates that **each station selected for a site visit will receive notice of the visit both via overnight mail and email to the station’s reimbursement point of contact and counsel of record**. Accordingly, it will be extremely important for broadcasters to ensure that their listed point of contact and counsel are current and accurate, and that they are monitoring their email and physical mail in the event the station is selected for a site visit. The third-party contractor to perform the site visit will then provide the broadcaster with the opportunity to participate in a pre-visit teleconference to coordinate timing and other details of the visit.

*Remaining Invoice Submission Deadlines*. As we have previously written, there are two remaining invoice submission deadlines for stations seeking repack reimbursement, divided into the following groups:

* **March 22, 2022 (less than a month from the date of this memo!):** Deadline for final reimbursement invoice submissions from repacked stations assigned completion dates in Phases 6–10.
* **September 5, 2022:** Deadline for final reimbursement invoice submissions from FM, LPTV, and translator stations, as well as other entities such as MVPDs.

The deadlines are calibrated to try and provide FCC staff sufficient time to process requests prior to the deadline for reimbursement that is required by statute: on July 3, 20**23**, any unobligated amounts currently earmarked for reimbursement will be released and deposited into the U.S. Treasury. Importantly, broadcasters need not wait until the deadline to file for reimbursement. The FCC has stated multiple times that broadcasters should submit reimbursement requests and initiate close out procedures “as early as possible”. Expenses are reimbursable when incurred, and therefore can be submitted even while final construction remains ongoing.

Finally, each broadcaster seeking reimbursement—including any selected for a site visit—must remember to retain all documentation relating to reimbursement for a period ending 10 years after the date on which the broadcaster receives final payment from the Reimbursement Fund. Because there is a high likelihood that personnel may change over time and because 10 years is not necessarily a common retention period for documentation, repacked stations may be well‑served by taking the time now to put together robust packets of all their reimbursement records for safe-keeping and easy access over the next decade or so.

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*Tim Nelson, Editor*

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