



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

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October 14, 2008

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

From: Jim Nussle
Director

Subject: Spectrum Relocation Fund Guidance

This memorandum transmits guidance applicable to all agencies receiving funds from the Spectrum Relocation Fund (SRF) under the Commercial Spectrum Enhancement Act (CSEA, Title II of P.L. 108-494).

The SRF was created in 2004 by the CSEA to streamline the process through which Federal agencies can recover the costs associated with relocating their radio communications systems from spectrum bands that were authorized to be auctioned for commercial purposes. In 2006, the Federal Communications Commission conducted the first spectrum auction under the CSEA, in part using spectrum occupied by twelve Federal agencies. These agencies are now in the process of relocating their wireless communications systems from the affected spectrum, using resources provided from the SRF in March 2007. This process is facilitating the availability of innovative wireless services to American consumers, providing budgetary benefit, and enabling agencies to procure state-of-the art communications systems.

Under the CSEA, OMB administers the SRF and approves the funding levels and timelines associated with Federal relocation activity, in consultation with the National Telecommunications and Information Administration (NTIA) of the Department of Commerce. OMB and NTIA worked with affected agencies to review their initial cost estimates and project timelines for relocation activity in advance of the March 2007 transfers, which were intended to serve all relocation needs. Since that time, however, several agencies have requested additional resources from the SRF. OMB has approved subsequent transfers in limited circumstances, where it was clear that additional resources were necessary to vacate the auctioned spectrum as required by law. However, it remains OMB's view that agencies should adhere to their initial cost and timeline estimates, which are crucial to the success of the relocation initiative.

Appended to this memorandum are detailed criteria related to requests for subsequent transfers from the SRF, and other matters related to the relocation initiative. Agencies requesting additional SRF resources or an extension of their approved timelines should provide the information specified in the attached guidance, and any requests for additional funds should be transmitted to OMB from the Secretary of cabinet departments, or from the most senior official of non-cabinet agencies. It remains OMB's expectation that agencies' original transfers will serve to fulfill their relocation needs and that the approved timelines will be sufficient to vacate the spectrum.

Attachment

Spectrum Relocation Fund Implementation Guidance

SPECTRUM RELOCATION FUND OMB IMPLEMENTATION GUIDANCE

October 2008

Purpose

This document provides guidance to agencies participating in the relocation of Federal communications systems from the 1710 – 1755 MHz band of spectrum, under the authority of the Commercial Spectrum Enhancement Act (CSEA, Title II of P.L. 108-494), which created the Spectrum Relocation Fund (SRF). Specifically, this document provides instructions for any agency requests for funds in addition to those received in March 2007, changes to relocation project timelines, as well as other general implementation guidance.

Background

The SRF was created in 2004 to streamline the process through which Federal agencies can recover the costs associated with relocating their radio communications systems from certain spectrum bands, which were authorized to be auctioned for commercial purposes. This process allows for the consolidation of Federal spectrum use, with budgetary benefit resulting from spectrum auction proceeds, economic benefit resulting from new consumer wireless services, and agency benefit through the procurement of new communications systems.

The CSEA, which created the SRF, appropriated such sums as are necessary to relocate affected Federal wireless systems, with funding to come from spectrum auction proceeds. Transfers from the SRF to agency accounts for the relocation of their affected wireless systems may be executed at the discretion of the Director of the Office of Management and Budget (OMB), in consultation with the National Telecommunications and Information Administration (NTIA) of the Department of Commerce, subject to a Congressional notification period.

In February 2005, agencies were requested by NTIA to provide estimates of relocation costs and timelines associated with all affected wireless systems. These estimates were reviewed by OMB and NTIA, and subsequently provided to the Federal Communications Commission (FCC), in order to form the basis for the reserve price in the upcoming auction and to form commercial expectations of timing for availability of the auctioned spectrum. In September 2006, agencies were asked to update and finalize these estimates to facilitate initial transfers from the SRF. In September 2006, the FCC conducted a spectrum auction for wireless broadband licenses (known as Advanced Wireless Services), in part using spectrum occupied by Federal agencies, under the Commercial Spectrum Enhancement Act.

In March 2007, following extensive consultation with affected Federal entities and notification to the Congress, OMB made over \$1 billion available to twelve Federal agencies for the purpose of relocating effected wireless communications systems from spectrum that has been auctioned for commercial use. The accuracy of these initial relocation estimates is essential to the successful execution of the relocation initiative, since the aggregate Federal relocation costs form the basis for the reserve price in the auction, and the timelines that were approved allow commercial wireless firms to form their investment plans.

The Spectrum Relocation Fund (SRF) is authorized to fund the one-time expenses associated with vacating spectrum bands auctioned for commercial use.¹ As such, the initial transfers in March 2007, formulated from agency input regarding their relocation needs, are intended to be and in most cases should be sufficient to fund all relocation activity within the timeframes agreed to. It is OMB's expectation that agencies' original transfers will serve to fulfill their relocation needs and that the approved timelines will be sufficient to vacate the spectrum.

The CSEA does, however, contain a provision allowing for subsequent transfers from the SRF. OMB believes that this provision is intended to address unforeseen circumstances or clear miscalculations of relocation costs, such that relocation cannot be accomplished without additional funding. Subsequent transfers should therefore be limited to extraordinary and unforeseen circumstances. Agencies should make all attempts to relocate and preserve the comparable capability of their systems within the amounts made available in March 2007, as well as the approved timelines.

Agencies should limit any initial and subsequent requests to those that maintain “comparable capability of systems”, as specified in the CSEA. “Comparable capability of systems” refers to a replacement telecommunications system’s ability to provide the same functions as the legacy systems, regardless of whether that capability is achieved by relocating to a new frequency assignment or by utilizing an alternative technology. Replacement by state-of-the-art technology is permitted, provided system functions are not significantly expanded. SRF funding is not authorized to increase the functional capabilities of telecommunications systems.

Information Requirements

As stated above, it is OMB's expectation that agencies' original transfers will serve to fulfill their relocation needs and that the approved timelines will be sufficient to vacate the spectrum. However, to request a subsequent transfer from the SRF, a request letter to the Director, signed by the Secretary (for departments) or most senior official (for smaller agencies), should accompany a detailed justification. The justification should be provided in the format of *Attachment A*, and include detailed information such as is illustrated in *Attachment B*.

Funding

The accuracy of initial relocation estimates is essential to the successful execution of the relocation initiative, since the aggregate Federal relocation costs form the basis for the reserve price in the auction. However, if an agency determines that relocation requirements cannot be met within currently available funds, OMB and NTIA must be provided with sufficient information to review funding needs. No subsequent transfers will be made without the approval of the Director of OMB, in consultation with NTIA (a 45-day Congressional notification requirement may also apply).

Timelines

In accordance with the CSEA, the relocation timeframes are also reviewed and approved by OMB, in consultation with NTIA. These timeframes are also important to the success of the relocation initiative, since they form the basis for commercial winning bidders’

¹ See Section 202(3) of the CSEA for more detailed information on authorized uses for the SRF.

investment plans. Therefore, agencies should make every attempt to adhere to the relocation timeframes that were approved in advance of the auction. If an agency needs to extend the approved timeframe for a system, sufficient justification must be provided to OMB and NTIA. This justification should include a plan to minimize impact on commercial licensees. In cases where outside contracts for relocation services are affected, agencies should state (i) the date the contract was executed, (ii) the period specified in the contract for performance, and (iii) any factors beyond the agency or contractor's control, such as short construction seasons, natural disasters or other circumstances affecting estimated time lines.

The following information should be provided in the justification for the subsequent transfer in *Attachment A*. If only an extension of time is requested, provide information related only to numbers 1 through 5 below. OMB and NTIA may also request that additional information be provided upon receiving a request for a subsequent transfer that fails to follow this guidance or lacks sufficient detail.

1. A description of the systems requiring relocation, as well as an overview of the relocation plan. The number of affected frequency assignments and systems should be indicated.
2. The basis for the original estimate of time and/or funding, and why that estimate is insufficient to meet relocation requirements.
3. The basis for the subsequent request, including an analysis of options and the impact of not receiving additional funds and/or receiving a timeframe extension. The analysis of options should include a cost-benefit analysis and a description of the advantages and disadvantages of each option.²
4. An assessment of the thoroughness of the subsequent request and the confidence the agency has in its accuracy. This assessment should take into account the completeness of research, the soundness of project planning, and the likelihood of any further requests.
5. The amount of funds and estimated time remaining and the agency's deadline for obtaining additional funds and/or time.
6. Whether any of the additional funding requested is to reimburse the agency for expenses incurred, or if all costs are forward-looking.
7. A performance-based description (e.g., using quantifiable output and outcome measures) of how the proposed investment achieves comparable capability of systems, and how it is the most cost-effective means to achieve this.

Additional Guidance

The following information pertains to all agencies that are participating in the SRF:

- *Congressional Notification.*—The Commercial Spectrum Enhancement Act (CSEA, Title II of P.L. 108-494) specifies that subsequent transfers from the SRF that exceed 10 percent of the original transfer are subject to a 45-day congressional notification period. Within 30 days of OMB sending this notification, GAO must review and assess the plan, and provide this assessment to the appropriations and commerce committees.

² For more information about performing a cost-benefit analysis, refer to the "Capital Programming Guide," at: http://www.whitehouse.gov/omb/circulars/a11/current_year/part7.pdf.

- *Transfer and Apportionment of Funds.*—Following congressional notification, transfers will be initiated by OMB.³ Transfers will be made for the entire amount that has been approved for each account, and any excess amounts will be transferred back to the SRF once relocation activities are completed. Agencies are required to submit an apportionment request to OMB for each receiving account, which should reflect the entire amount of available relocation funding for that account. Agencies will be notified when funds are available for transfer from the SRF, at which point apportionments may be submitted that reflect a non-expenditure transfer (line 4a on the SF132) in the approved amount.⁴ These funds are available for obligation immediately upon transfer, and will remain available until expended. Agencies should seek to expedite relocation activities to ensure timely availability of the spectrum to new licensees, and should not exceed the time lines that have been approved by OMB. Accounts that have received transfers from the SRF should be reapportioned with the start of each new fiscal year, until relocation activities are completed.
- *Eligible Expenditures.*—Amounts received in agency accounts from the SRF are authorized only for activities related to the relocation of communication systems from the 1710 MHz to 1755 MHz band of spectrum, as specified in Section 202(3) of the CSEA and as approved by OMB in December 2005 (including subsequent approved modifications).
- *Expenditure Tracking/Annual Reports.*—The CSEA requires that NTIA file an annual report that indicates the progress made in adhering to approved relocation timelines and costs on a system-by-system basis. On an annual basis, beginning one year following the transfer of funds to agencies, NTIA, after consulting with OMB, will collect information from agencies to meet this requirement. A template for data collection will solicit information relating to budget authority, obligations incurred, outlays, and balances. Information will be collected on both an account and system-level basis.⁵
- *Post-Auction Coordination with Commercial Licensees.*—Agencies should ensure that they are prepared to manage the interface with successful auction participants. This might include having a central contact point for information related to the communications systems to be relocated, and an ability to accept and reply to analyses of potential spectral interference with commercial systems. The post-auction coordination process will follow the protocols outlined in the FCC-NTIA Joint Public Notice of April 2006⁶, including the provision of all unclassified Government Master File data to licensees under a non-disclosure agreement, to facilitate commercial interference analyses. Commercial licensees are authorized, and will likely seek to,

³ OMB will send a Form 1151 to Treasury to initiate non-expenditure transfers to agency accounts. The receiving accounts for the transfers are specified in the FY2007 President’s Budget. (For any agency requiring an expenditure transfer, OMB will use a Form 1081 instead.)

⁴ An agency receiving an expenditure transfer will record spending authority from offsetting collections on line 3D1a of the SF132, instead of a non-expenditure transfer. For more information on transfer and apportionment of funds, see OMB Circular A-11 (http://www.whitehouse.gov/omb/circulars/a11/current_year/a11_toc.html).

⁵ “Accounts” are identified in the OMB report to Congress required pursuant to Section 203 of the CSEA.

⁶ “The Federal Communications Commission and the National Telecommunications and Information Administration – Coordination Procedures in the 1710-1755 MHz Band”, [FCC 06-50](http://www.ntia.doc.gov/ntiahome/frnotices/2006/AWS_042006.htm), WTB Docket No.02-353, April 20, 2006, available at: http://www.ntia.doc.gov/ntiahome/frnotices/2006/AWS_042006.htm

commence operations prior to the full relocation of Federal systems, provided that such operation does not create harmful interference to Federal incumbents operating with an NTIA frequency authorization.

- *Transfer of Funds.*—The CSEA authorizes transfers to be made from the SRF to the appropriations account of the eligible Federal entity that has incurred or will incur relocation costs. The CSEA does not authorize the transfer of funds between appropriations accounts. In addition, OMB should be notified in advance if an agency wishes to reallocate funds between affected systems, within a single account that has received a transfer from the SRF.
- *Re-transfer to SRF.*—The CSEA requires that any amounts transferred to agencies that are in excess of actual relocation costs shall be returned to the SRF, immediately after NTIA notifies the FCC that the agency’s relocation is complete. Agencies are to initiate this transfer.

Attachment A – Template for Requesting a Subsequent Transfer from the SRF

Agency:	Bureau:
Account Title:	Account Number:
Original Transfer:	Subsequent Transfer (request):
Number of Frequency Assignments:	Number of Systems:
Description (<i>provide the following information</i>):	
<ol style="list-style-type: none"> 1. A description of the systems requiring relocation, as well as an overview of the relocation plan. The number of affected frequency assignments and systems should be indicated. 2. The basis for the original estimate of time and/or funding, and why that estimate is insufficient to meet relocation requirements. 3. The basis for the subsequent request, including an analysis of options and the impact of not receiving additional funds and/or receiving a timeframe extension. The analysis of options should include a cost-benefit analysis and a description of the advantages and disadvantages of each option.⁷ 4. An assessment of the thoroughness of the subsequent request and the confidence the agency has in its accuracy. This assessment should take into account the completeness of research, the soundness of project planning, and the likelihood of any further requests. 5. The amount of funds and estimated time remaining and the agency’s deadline for obtaining additional funds and/or time. 6. Whether any of the additional funding requested is to reimburse the agency for expenses incurred, or if all costs are forward-looking. 7. A performance-based description (e.g., using quantifiable output and outcome measures) of how the proposed investment achieves comparable capability of systems, and how it is the most cost-effective means to achieve this. 	

Attachment B – Additional Detailed Information To Be Provided (see attached spreadsheet)

SERIAL NUMBER	FREQUENCY	BUREAU	TX STATE	TRANSMITTER GEOGRAPHIC LOCATION	RCV STATE	RECEIVER GEOGRAPHIC LOCATION	APPROVED TIMELINE (MONTHS)	REVISED TIMELINE (MONTHS)	APPROVED COST ESTIMATE	REVISED COST ESTIMATE

Costs of other types of systems may vary based on different factors. For example, expenditures for mobile US&P systems may depend on the costs per unit and number of units involved, and may also include permanent office locations. The costs of radar systems may vary by the number of frequencies assigned. In all cases, agencies should provide the most accurate representation of the actual costs of affected systems.

⁷ For more information about performing a cost-benefit analysis, refer to the “Capital Programming Guide,” at: http://www.whitehouse.gov/omb/circulars/a11/current_year/part7.pdf.

