

(4) General type of operation and equipment.

(5) Whether the facility can be retuned, modified, or must be relocated.

(6) Estimated marginal cost of retuning, modification, or relocation.

(7) Total estimated costs for all assignments.

(c) *Classified assignments.* Prior to the date on which the FCC has scheduled an auction to commence, Federal entities located on the spectrum to be auctioned will provide a single, consolidated and unclassified figure to NTIA for the cost of relocating, retuning, or modifying all such classified systems. NTIA will provide this information to the FCC which in turn will provide the figure to bidders with the following conditions: To the extent it is consistent with national security considerations, the figure may be broken down by geographical location and spectrum block to give those bidding on a geographic basis the best indication possible of the cost they may have to pay to relocate, retune or modify the systems at issue. Following the auction, the winner may apply for a facility clearance pursuant to the National Industrial Security Program Operating Manual and related individual security clearances. If those clearances and accesses are granted, classified information may be made available with regard to certain Government systems in accordance with the terms and conditions prescribed in the clearances and accesses provided, and subject to the overall rules and authorities found in Executive Order 12958, Executive Order 12968, and related Federal laws, rules and regulations.

(d) *Sensitive assignments.* Prior to the date on which the FCC has scheduled an auction to commence, Federal entities will provide a single, consolidated and unclassified figure to NTIA for the cost of relocating, retuning, or modifying all such sensitive systems. NTIA will provide this information to the FCC which in turn will provide the figure to bidders with the following conditions: To the extent it is consistent with the sensitive nature of the assignment, the figure may be broken down by geographical location and spectrum block to give those bidding on a geo-

graphic basis the best indication possible of the cost they may have to pay to relocate, retune or modify the systems at issue. Following the auction, the Government agency shall release the sensitive information to the winning licensee pursuant to a non-disclosure agreement, if required.

#### § 301.120 Negotiations and mediation.

(a) Within 30 days after public notice of the grant of a license for use of the bands identified in § 301.10, the licensee is required to provide the Federal entity that occupies the band with written notification of such event. Public notice of the grant commences the 135-day period for negotiation or mediation. During this period, parties are encouraged to resolve any differences with respect to relocation or modification costs or any other related issues, either through party-to-party negotiations and/or a third party mediator. Each party shall pay its own costs for negotiation and mediation. If, at the end of the 135-day period, the parties have not reached an agreement with respect to relocation, the parties may agree to extend the negotiation period.

(b) *Good faith obligation.* The parties are required to negotiate in good faith. Good faith means that:

(1) Neither party may refuse to negotiate; and

(2) Each party must behave in a manner necessary to facilitate the relocation process in a timely manner. Classified or sensitive information will be treated in accordance with § 301.110.

#### § 301.130 Non-binding arbitration.

If the parties have not reached agreement to extend the negotiation/mediation period, or if a previously extended negotiation/mediation period expires, the parties shall enter into non-binding arbitration. The parties shall agree on an arbitrator, and the arbitrator may not be the same person as the mediator if mediation has been used by the parties and failed. The parties may design such rules for arbitration as deemed appropriate. The arbitrator's non-binding written decision may be requested by NTIA as part of the record in its determination on a petition for relocation under § 301.140. The decision may be a factor, among other