Exhibits to FCC Form 175 and Related Issues

Auction No. 46: 1670-1675 MHz Band Auction Seminar
September 18, 2002
Introduction

• Roadmap
• Exhibits: Highlights
• Reminders
Rules: A Roadmap

• Rules Seek Information

  – Part 1, Subpart Q; 47 C.F.R. Sections 1.2105 and 1.2112.

Rules: A Roadmap

- Ensure accuracy and completeness
  - Only minor modifications are permitted
    - See Section 1.2105(b) for modification and dismissal of applications
  - Certifications – mandatory
  - All applicants must include Exhibits A and D
  - Some applicants must include additional Exhibits.
    - Exhibit B – bidding agreements
    - Exhibit C – bidding credits

- No particular format for exhibits. Content is important.
  - For examples of FCC Form 175s from other auctions, see https://auctionfiling.fcc.gov/form175/index.htm
Exhibit A: Applicant Identity and Ownership Information

- Applicants must disclose all “real parties in interest.” Section 1.2112(a).

- Section 1.2112(a) requires:
  - List all parties having ten percent or greater interest in the applicant.
    - Name, address, and citizenship
  - List all FCC-regulated entities of which the applicant or its owners own 10 percent or more.
    - Include a description of each entities’ principal business and its relationship to the applicant
Exhibit A: Applicant Identity and Ownership Information

- Applicants seeking bidding credits must provide additional ownership information under Section 1.2112(b).
  - Names, addresses, and citizenship of all officers, directors, and other controlling interests as defined by section 1.2110
Communications concerning bids, bidding strategies, and settlement agreements are generally prohibited among applicants for licenses in the same geographic area (section 1.2105(c)).

- Prohibition period is between the short-form deadline and the down payment deadline.

- For purposes of the anti-collusion rule, “applicant” includes controlling interests, ownership interests, and officers and directors.
Exhibit B: Joint Bidding Agreements

– In Exhibit B, applicants must identify all parties with whom they have entered into arrangements of any kind relating to the licenses being auctioned, including post-auction market structure. Section 1.2105(a)(2)(viii).

– Applicants that make or receive a prohibited communication of bids or bidding strategies must report, in writing, the communication immediately to the Commission.

- For more information, see Wireless Telecommunications Bureau Clarifies Auction Anti-Collusion Rules, Public Notice, DA 95-2244 (rel. Oct. 26, 1995)

Exhibit C: Status As a Small/Very Small Business

– Applicants may obtain a bidding credit based on their attributed average gross revenues for the last 3 years.

– Attributed gross revenues include revenues of the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests.
Exhibit C: Status As a Small/Very Small Business

- *Small Business*: attributed average gross revenues < $40 million
  - 15% bidding credit

- *Very Small Business*: attributed average gross revenues < $15 million
  - 25% bidding credit
Exhibit D: Former Defaulter Certification

- Required statement.

- Statement must indicate whether the applicant has ever been in default on any FCC license or any non-tax debt owed to any federal agency.

- The term “applicant” includes the applicant’s affiliates, its controlling interests, and affiliates of its controlling interests.

- Statement made under penalty of perjury.
Other Exhibits

- Exhibits E: “Designated Entities” includes small businesses

- Exhibit F: Applicants’ opportunity to provide additional information

- Waiver Requests: If filing, provide as much information as possible.
Reminders

• Applications will be available to the public.
  – Do not list taxpayer identification numbers (TINs) on the FCC Form 175

• Carefully read all the FCC Form 175 certifications.
  – Submission of the FCC Form 175 is a representation that its contents are true and correct.
  – Submission of a false certification may result in penalties.
  – Applicant must certify that it is legally, technically, financially, and otherwise qualified to participate in the auction.
Questions?

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