

Tribal Lands Bidding Credit

**Extending Wireless Services to
Tribal Lands**

**Phase II 220 MHz Service
(Auction No. 72)**

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DISCLAIMER

Nothing herein is intended to supersede any provision of the Commission's rules or public notices. These slides should not be used as a substitute for a prospective applicant's review of the Commission's relevant orders, rules, and public notices. Prospective applicants must familiarize themselves thoroughly and remain current with the Commission's rules relating to the Phase II 220 MHz Service, rules relating to application and auction procedures, and the procedures, terms and conditions contained in the Auction No. 72 public notices.

Tribal Lands Bidding Credit

- Credit given to winning bidders in Commission spectrum auctions who deploy facilities on and provide services to qualifying tribal lands.
- A qualifying tribal land is any federally recognized tribal area that has a wireline telephone penetration rate equal to or less than 85 percent.

Method of Calculation

- The Commission awards:
 - \$500,000 for the first 200 square miles (518 square kilometers) of qualifying tribal land; and
 - \$2500 for each additional square mile (2.59 square kilometers).

Bidding Credit Limit

- Maximum limits placed on credits.
- For gross bid amounts of \$1 million or less, the cap will be 50 percent of the gross bid.
- For gross bid amounts of greater than \$1 million, but less than or equal to \$2 million, the cap will be \$500,000.
- For gross bid amounts exceeding \$2 million, the cap will be 35 percent of the gross bid.

Increased Bidding Credit

- Waiver requests for a higher bidding credit will be considered by the Commission, pursuant to section 1.925.
- Applicant must demonstrate that its infrastructure costs exceed the available credit under the formula.
- Such requests will be subject to the applicable bidding credit cap.

Applying for Tribal Lands Bidding Credit

- Applicant indicates each market for which they seek tribal lands bidding credit on their long-form by the Form 601 filing deadline.
- Applicants are allowed 180 calendar days to amend their long-forms and attach the required certifications.

Required Certifications

- Required certifications consist of:
 - **Tribal Government Certification**
 1. It will allow the applicant to site facilities and provide service on its tribal land(s), in accordance with FCC rules;
 2. It has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate against any carrier; and
 3. Its tribal land is a qualifying tribal land as defined by the FCC rules, *i.e.* areas that have a telephone penetration rate at or below 85 percent.
 - **Applicant Certification**
 1. It will consult with the tribal government about siting facilities and providing service on its land; and
 2. It will comply with the three-year buildout requirement.

Construction Requirement

- In order to verify compliance with the tribal lands buildout requirement, licensees are required to file a notification of construction (Via the Universal Licensing System).
- Must be filed no later than 15 days from the conclusion of the three-year buildout period.
- Must state that they have constructed and are operating a system that covers 75 percent of the population of the qualifying tribal land.

Repayment

- If the buildout requirement is not met by the 3-year deadline or if the notification of construction is not filed, the licensee must repay the bidding credit amount plus interest.
- Repayment is due no later than 30 days after the 3-year buildout deadline date.
- Failure to repay will result in automatic termination of the license.

Transfers and Assignments

- Transfers of Control or assignment of license is permitted.
- Obligations of the license automatically transfer to the transferee or, if a full assignment, to the assignee.
- Note restrictions on unjust enrichment.
- If partitioning a license with a TLBC, the tribal land must be "wholly contained" within one of the areas and bidding credit goes with area covering the tribal lands.

Further Information

- See:
 - 47 C.F.R. § 1.2110(f)(3).
 - Winning Bidder/Closing Public Notice for Auction No. 72
 - Auction Website <http://wireless.fcc.gov/auctions/> (select the link for "Tribal Land Credits ")
- Contact:
 - Allen Barna, phone: (202) 418-0620, or email: allen.barna@fcc.gov.

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THE END

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