

## APPENDIX

### RULES

Parts O and 24 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

#### Part O - Commission Organization

1. The authority citation for Part O continues to read as follows:

**Authority:** Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.91 is amended by adding a new paragraph ( n ) to read as follows:

#### § 0.91 Functions of the Bureau

\* \* \* \* \*

(n) Develops, in coordination with the Office of Plans and Policy, policies for the selection of licenses from mutually exclusive applicants in the Common Carrier Service subject to competitive bidding; issues Public Notices announcing auctions for Common Carrier Service Licenses; specifies the licenses to be auctioned; the deadlines for filing short-form applications, filing fees, and submission of upfront payments; the time and place of the auction; the method of competitive bidding to be used; competitive bidding procedures including, but not limited to, designated entity preferences, applicable bid submission procedures, upfront payment requirements, activity rules, stopping rules, and bid withdrawal procedures.

3. The authority citation for Part 24 continues to read as follows:

**AUTHORITY:** Secs. 4, 301, 302, 303, 309 and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 301, 302, 303, 309 and 332, unless otherwise noted.

4. Section 24.10 is amended to read as follows:

**Section 24.10 Scope.**

This subpart contains some of the procedures and requirements for filing applications for licenses in the personal communications services. You should also consult Subparts F and G. Other Commission rule parts of importance that may be referred to with respect to licensing and operation of radio services governed under this part include Parts 0, 1, 2, 5, 15, 17 and 20.

5. Section 24.129 is amended to read as follows:

**Section 24.129 Frequencies.\***

The following frequencies are available for narrowband PCS. All licenses on channels indicated with an (\*\*\*) will be eligible for bidding credits as set forth in Section 24.309(b) of this Part if competitive bidding is used to award such licenses.

(a) Eleven frequencies are available for assignment on a nationwide basis as follows:

(1) Five 50 kHz channels paired with 50 kHz channels:

Channel 1: 940.00-940.05 and 901.00-901.05 MHz;  
Channel 2: 940.05-940.10 and 901.05-901.10 MHz;  
Channel 3: 940.10-940.15 and 901.10-901.15 MHz;  
Channel 4: 940.15-940.20 and 901.15-901.20 MHz; and,  
Channel 5: 940.20-940.25 and 901.20-901.25 MHz.\*\*

(2) Three 50 kHz channels paired with 12.5 kHz channels:

Channel 6: 930.40-930.45 and 901.7500-901.7625 MHz;  
Channel 7: 930.45-930.50 and 901.7625-901.7750 MHz; and,  
Channel 8: 930.50-930.55 and 901.7750-901.7875 MHz.\*\*

(3) Three 50 kHz unpaired channels:

Channel 9: 940.75-940.80 MHz;  
Channel 10: 940.80-940.85 MHz; and,  
Channel 11: 940.85-940.90 MHz.\*\*

(b) Six frequencies are available for assignment on a regional basis as follows:

(1) Two 50 kHz channels paired with 50 kHz channels:

Channel 12: 940.25-940.30 and 901.25-901.30 MHz; and,  
Channel 13: 940.30-940.35 and 901.30-901.35 MHz.\*\*

(2) Four 50 kHz channels paired with 12.5 kHz channels:

Channel 14: 930.55-930.60 and 901.7875-901.8000 MHz;  
Channel 15: 930.60-930.65 and 901.8000-901.8125 MHz;  
Channel 16: 930.65-930.70 and 901.8125-901.8250 MHz; and,  
Channel 17: 930.70-930.75 and 901.8250-901.8375 MHz.\*\*

(c) Seven frequencies are available for assignment on a MTA basis as follows:  
(1) Two 50 kHz channels paired with 50 kHz channels:

Channel 18: 940.35-940.40 and 901.35-901.40 MHz; and,  
Channel 19: 940.40-940.45 and 901.40 -901.45 MHz.\*\*

(2) Three 50 kHz channels paired with 12.5 kHz channels:

Channel 20: 930.75-930.80 and 901.8375-901.8500 MHz;  
Channel 21: 930.80-930.85 and 901.8500-901.8625 MHz; and,  
Channel 22: 930.85-930.90 and 901.8625-901.8750 MHz.\*\*

(3) Two 50 kHz unpaired channels:

Channel 23: 940.90-940.95 MHz; and,  
Channel 24: 940.95-941.00 MHz.\*\*

(d) Two 50 kHz channels paired with 12.5 kHz channels are available for assignment on a BTA basis:

Channel 25: 930.90-930.95 and 901.8750-901.8875 MHz; and,  
Channel 26: 930.95-931.00 and 901.8875-901.9000 MHz.

\*Operations in markets or portions of markets which border other countries, such as Canada and Mexico, will be subject to on-going coordination arrangements with neighboring countries.

6. Section 24.130 is amended to read as follows:

\* \* \* \* \*

(b) The following four 12.5 kHz unpaired channels are available for assignment on a MTA basis:

A: 901.9000-901.9125 MHz;  
B: 901.9125-901.9250 MHz;

C: 901.9250-901.9375 MHz; and  
D: 901.9375-901.9500 MHz.

(c) The following four 12.5 kHz unpaired channels are available for assignment on a BTA basis:

E: 901.9500-901.9625 MHz;  
F: 901.9625-901.9750 MHz;  
G: 901.9750-901.9875 MHz; and  
H: 901.9875-902.0000 MHz.

7. Part 24 is amended by adding a new Subpart F to read as follows:

**Subpart F - Competitive Bidding Procedures for Narrowband PCS**

**24.301 Narrowband PCS Subject to Competitive Bidding.** Mutually exclusive initial applications to provide narrowband PCS service are subject to competitive bidding procedures. The general competitive bidding procedures found in 47 C.F.R. Part 1, Subpart Q, will apply unless otherwise provided in this part.

**24.302 Competitive Bidding Design for Narrowband PCS Licensing.** (1) The Commission will employ the following competitive bidding designs when choosing from among mutually exclusive initial applications to provide narrowband PCS service:

- (A) Single round sealed bid auctions (either sequential or simultaneous)
- (B) Sequential oral auctions
- (C) Simultaneous multiple round auctions

The Commission may design and test alternative procedures. The Commission will announce by Public Notice before each auction the competitive bidding design to be employed in a particular auction.

(2) The Commission may use combinatorial bidding, which would allow bidders to submit all or nothing bids on combinations of licenses, in addition to bids on individual licenses. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified amount. Combinatorial bidding may be used with any type of auction design.

(3) The Commission may use single combined auctions, which combine bidding for two or more substitutable licenses and award licenses to the highest bidders until the available licenses are exhausted. This technique may be used in conjunction with any type of auction.

#### **24.303 Competitive Bidding Mechanisms.**

- (1) **Sequencing.** The Commission will establish and may vary the sequence in which narrowband PCS licenses will be auctioned.
- (2) **Grouping.** In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determine which licenses will be auctioned simultaneously or in combination.
- (3) **Reservation Price.** The Commission may establish a reservation price, either disclosed or undisclosed, below which a license subject to auction will not be awarded.
- (4) **Minimum Bid Increments.** The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms.
- (5) **Stopping Rules.** The Commission may establish stopping rules before or during multiple round auctions in order to terminate an auction within a reasonable time.
- (6) **Activity Rules.** The Commission may establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted five (5) waivers of such rule during the course of a single auction.

**24.304 Withdrawal, Default and Disqualification Penalties.** (1) When the Commission conducts a simultaneous multiple round auction pursuant to § 24.104 (b)(1)(C), the Commission will impose penalties on bidders who withdraw high bids during the course of an auction, or who default on payments due after an auction closes or who are disqualified.

(A) Bid withdrawal prior to close of auction. A bidder who withdraws a high bid during the course of an auction will be subject to a penalty equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal penalty would be assessed if the subsequent winning bid exceeds the withdrawn bid. This penalty amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(B) Default or disqualification after close of auction. If a high bidder defaults or is

disqualified after the close of such an auction, the defaulting bidder will be subject to the penalty in subsection (1) plus an additional penalty equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent penalty will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission.

(2) When the Commission conducts single round sealed bid auctions or sequential oral auctions, the Commission may modify the penalties to be paid in the event of bid withdrawal, default or disqualification; provided, however, that such penalties shall not exceed the penalties specified above.

(3) In the case of single round bidding for narrowband PCS licenses:

(a) If a bid is withdrawn before the Commission releases the initial Public Notice announcing the winning bidder(s), no bid withdrawal penalty will be assessed.

(b) If a bid is withdrawn after the Commission releases the initial Public Notice announcing the winning bidder(s), the bid withdrawal penalty will be equal to the difference between the high bid amount and the amount of the next highest valid bid. A bid will be considered valid for this purpose if the bidder has not already been designated the winning bidder on more licenses than it is permitted to be awarded. Losing bidders will only be subject to this bid withdrawal penalty for a period of 30 days after the Commission releases the initial Public Notice announcing the winning bidders.

(4) In the case of oral sequential bidding for narrowband PCS licenses:

(a) If a bid is withdrawn before the Commission has declared the bidding to be closed for the license bid on, no bid withdrawal penalty will be assessed.

(b) If a bid is withdrawn after the Commission has declared the bidding to be closed for the license bid on, the bid withdrawal penalty of section 1.2104(g) and subsections (1)(B) and (2) will apply.

**24.305 Bidding Application (FCC Form 175 and 175-S Short-Form).** (1) All applicants for initial provision of narrowband PCS service must submit applications on FCC Forms 175 and 175-S pursuant to the procedures set forth in § 1.2105 of part 1 of this Chapter. The Commission will issue a Public Notice announcing the date of a narrowband PCS auction, the licenses which are to be auctioned, and the date on or before which applicants intending to participate in an upcoming narrowband PCS auction must file their applications in order to be eligible for that auction. The Public Notice will also contain information necessary for completion of the application as well as other important information such as the materials

which must accompany the Forms, any filing fee that must accompany the application or any upfront payment that will need to be submitted, and the location where the application must be filed.

**24.306 Submission of Upfront Payments and Down Payments.** (1) Where the Commission uses simultaneous multiple round auctions or oral sequential auctions bidders will be required to submit an upfront payment pursuant to the procedures set forth in Section 1.2106 of part 1 of this Chapter. (2) winning bidders in an auction must submit a down payment to the Commission in accordance with the procedures set forth in Section 1.2107 (a) and (b) of part 1 of this Chapter.

**24.307 Long Form Applications.** Winning bidders will be required to submit long form applications on FCC form 401, as modified, within ten (10) business days after being notified that they are the winning bidder. Applications on FCC Form 401 shall be submitted pursuant to the procedures set forth in Subpart G and Section 1.2107 (c) and (d) of part 1 this Chapter and any associated Public Notices. Only auction winners will be eligible to file applications on FCC Form 401 for initial narrowband PCS licenses in the event of mutual exclusivity between applicants filing Form 175. Winning bidders need not complete Schedule B to Form 401.

**24.308 License Grant, Denial, Default, and Disqualification.** (1) Winning Bidders are required to pay the balance of their winning bid in a lump sum payment within five (5) businesses days following the following the award of the license. Grant of the license will be conditioned upon full an timely payment of the winning bid amount. (2) A bidder who withdraws its bid, defaults on a payment or is disqualified will be subject to the penalties specified in Section 1.2109 of this Section.

**24.309 Designated Entities** (1) Designated entities. Designated entities entitled to preferences in the narrowband PCS service are small businesses and businesses owned by members of minority groups and/or women as defined in Section 1.2110 (b) of this Chapter.

(A) Installment payments. Small businesses, including small businesses owned by women and/or minorities, will be eligible to pay the full amount of their winning bid on any regional, MTA or BTA license in installments over the term of the license pursuant to the terms set forth in Section 1.2110(d) of this Chapter.

(B) Bidding Credits. Businesses owned by women and minorities, including small businesses owned by women and/or minorities will be eligible for a twenty-five percent (25) bidding credit when bidding on the following licenses: the nationwide licenses on Channel 5, Channel 8 and Channel 11; (2) all regional licenses on Channel 13 and Channel 17; and (3) all MTA

licenses on Channel 22, Channel 24, and Channel 26. See 47 C.F.R. § 24.129. The bidding credit will reduce by 25 percent the bid price that businesses owned by women and/or minorities will be required to pay to obtain a license. The licenses that will be eligible for bidding credits are indicated by an (\*\*) in section 24.129 above.

(C) Tax Certificates. Any initial investor in a business owned by minorities and/or women and who provides "start-up" financing, which allows such business to acquire a narrowband PCS license(s), and any investor who purchases an ownership interest in a narrowband PCS licensee owned by minorities and/or women within the first year after license issuance, which allows for the stabilization of the entity's capital base, may, upon the sale of such investment or interest, request from the Commission a tax certificate, so long as such investor transaction does not reduce minority or female ownership or control in the entity below 50.1 percent. Any narrowband PCS licensee who assigns or transfers control of its license to a business owned by minorities and/or women may request that the Commission issue it a tax certificate.

(D) Unjust Enrichment. Designated entities using installment payments, bidding credits or tax certificates to obtain a narrowband PCS license will be subject to the following unjust enrichment provisions:

(1) If a small business paying for a narrowband PCS license in installment payments seeks to transfer a license to a non-small business entity during the term of the license, the remaining principal balance must be repaid as a condition of the license transfer.

(2) Female and minority-owned businesses seeking to transfer a license to an entity that is not owned by women or minorities will be required to reimburse the government for the amount of the bidding credit, plus interest at the rate imposed for installment financing at the time the license was awarded, before transfer will be permitted. The amount of this penalty will be reduced over time as follows: a transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit; in year three of the licenses term the penalty will be 75 percent; in year four the penalty will be 50 percent and in year five the penalty will be 25 percent, after which there will be no penalty.

(3) Any business owned by minorities and or women that obtains a narrowband PCS license through the benefit of tax certificates shall not assign or transfer control of its license within one year of its license grant date. If the assignee or transferee is a business owned by minorities and or women, this paragraph shall not apply; Provided, however, that the assignee or transferee shall not assign or transfer control of the license within one year of the grant date of the assignment or transfer.

8. Part 24 is amended by adding a new Subpart G to read as follows:

**SUBPART G-Interim Application, Licensing and Processing Rules for Narrowband PCS**

**Sec. 24.403 Authorization required.**

**No person shall use or operate any device for the transmission of energy or communications by radio in the services authorized by this part except as provided in this part.**

**Sec. 24.404 Eligibility.**

**(a) General. Authorizations will be granted upon proper application if:**

**(1) The applicant is qualified under the applicable laws and the regulations, policies and decisions issued under those laws, including Sections 24.101 and 24.12;**

**(2) There are frequencies available to provide satisfactory service; and**

**(3) The public interest, convenience or necessity would be served by a grant.**

**(b) Alien ownership.**

**A narrowband PCS authorization to provide Commercial Mobile Radio Service may not be granted to or held by:**

**(1) Any alien or the representative of any alien.**

**(2) Any corporation organized under the laws of any foreign government.**

**(3) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or any corporation organized under the laws of a foreign country.**

**(4) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.**

**A Narrowband PCS authorization to provide Private Mobile Radio Service may not be granted to or held by a foreign government or a representative thereof.**

**Sec. 24.405 Formal and informal applications.**

(a) Except for an authorization under any of the conditions stated in section 308(a) of the Communications Act of 1934 (47 U.S.C. 308(a)), the Commission may grant only upon written application received by it, the following authorization: station licenses; modifications of licenses; renewals of licenses; transfers and assignments of station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" where the Commission has prescribed in this Part a standard form; or

(2) "Informal applications" (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;

(2) It is a document submitted, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules and states clearly and completely the facts involved and authorization desired.

**Sec. 24.406 Filing of Narrowband PCS applications, fees, and numbers of copies.**

(a) As prescribed by Sections 24.305, 24.307, and 24.409 of this part, standard formal application forms applicable to the narrowband PCS may be obtained from either:

(1) Federal Communications Commission, Washington, DC 20554; or

(2) by calling the Commission's Forms Distribution Center, (202) 632-3676.

(b) Applications for the initial provision of narrowband PCS service must be filed on FCC Form 175 in accordance with the rules in Section 24.305 and Part 1, Subpart Q. In the event of mutual exclusivity between applicants filing FCC Form 175, only auction winners will be eligible to file subsequent long form applications on FCC Form 401 for initial narrowband PCS licenses. Mutually exclusive applications filed on Form 175 are subject to competitive

# High Bid Acknowledgment Form

Federal Communications Commission  
Auction No. \_\_\_\_\_

**Bid Acknowledgment**

Auction Lot No. \_\_\_\_\_

Bidder Number \_\_\_\_\_

FCC Account No. \_\_\_\_\_

The undersigned Bidder acknowledges and confirms the bid amount stated above. The Bidder certifies that he has thoroughly reviewed the auction documents, understands all of the provisions, and is willing to be bound all of the terms thereof.

BIDDER:

By: \_\_\_\_\_

Title: \_\_\_\_\_

BID DEPOSIT INFORMATION:

Check No. \_\_\_\_\_

\_\_\_\_\_ Check Amount \$ \_\_\_\_\_

\_\_\_\_\_ No check required

have been determined to be qualified to bid.<sup>21</sup> Each applicant listed on this fourth Public Notice will be issued a bidder identification number and further information and instructions regarding the auction procedures.

## **B. Upfront Payment**

45. We will require all auction participants to tender in advance to the Commission a substantial upfront payment as a condition of bidding in order to ensure that only serious, qualified bidders participate in auctions and to ensure payment of the penalty (discussed *infra*) in the event of bid withdrawal or default. We believe that the standard upfront payment formula of \$0.02 per pop per MHz for the largest combination of MHz-pops a bidder anticipates bidding on in any single round of bidding is appropriate for narrowband PCS services.<sup>22</sup> Although some commenters suggested a higher pop-MHz upfront payment calculation for narrowband PCS auctions,<sup>23</sup> we believe that our standard \$0.02 per pop per MHz upfront payment formula is appropriate to attract as many qualified bidders as possible while providing adequate deterrence against frivolous bidding. This upfront payment calculation will define the upper bound of MHz-pops on which a bidder will be permitted to bid in any round, and so should be calculated by bidders to reflect the maximum MHz-pops from any combination of licenses on which they may want to bid in a single round. Using this formula will provide bidders with the flexibility to change their strategy during an auction and to bid on a larger number of smaller licenses or a smaller number of larger licenses, so long as the total MHz-pops combination does not exceed that amount covered by the upfront payment. If licenses covering the nation are being auctioned simultaneously, a bidder will not be required to file an upfront payment representing national coverage unless it intends to bid on licenses covering the entire nation in any single bidding round. We will announce the upfront payment amount for each license in a Public Notice issued prior to the auction.

46. In the Second Report we established a minimum upfront payment of \$2,500 to ensure that the use of our preferred formula would result in a substantial enough payment that bidders would be deterred from making frivolous bids. We indicated, however, that this amount could be modified on a service specific basis. We believe that a \$2,500 minimum may be too high for some narrowband licenses in sparsely populated areas, which may be have values below this amount. We, therefore, will establish a lower minimum upfront payment of \$1,000 for narrowband PCS applications.

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<sup>21</sup> An applicant who fails to submit a sufficient upfront payment to qualify it to bid on any license being auctioned will not be identified on this Public Notice as a qualified bidder.

<sup>22</sup> As discussed *infra*, however, we retain the flexibility to consider using a simpler payment requirement if circumstances warrant. The upfront payment amount will be announced by Public Notice before each auction.

<sup>23</sup> PacTel Paging proposed a \$0.04 per pop per MHz formula for MTA licenses and a \$0.08 per pop per MHz formula for BTA licenses. PacTel Paging Reply Comments at ¶ 11.

47. Upfront payments generally will be due no later than 14 days before a scheduled auction. This period should be sufficient to allow the Commission sufficient time to process upfront payment data and release a Public Notice listing all qualified bidders. The specific procedures to be followed in the tendering and processing of upfront payments are set forth in Section 1.2106 of the Commission's rules.

### **C. Down Payment and Full Payment for Licenses Awarded by Competitive Bidding**

48. The Second Report and Order established a 20 percent down payment to discourage default between the auction and licensing and ensure payment of the penalty (discussed *infra* at ¶ 49) if such default occurs. We concluded that a 20 percent down payment was appropriate to ensure that auction winners have the necessary financial capabilities to complete payment for the license and to pay for the costs of constructing a system, while at the same time not being so onerous as to hinder growth and diminish access. We therefore will require that winning bidders supplement their upfront payments with a down payment sufficient to bring their total deposits up to 20 percent of their winning bid(s).<sup>24</sup> The winning bidder will be required to submit the required down payment by cashier's check or wire transfer to our lock-box bank by a specified date, generally within five (5) business days following the close of bidding.<sup>25</sup> All auction winners, with the exception of certain designated entities, will be required to make full payment of the balance of their winning bids within five (5) business days following award of the license. Grant of the license will be conditioned on this payment.

### **D. Bid Withdrawal, Default and Disqualification**

49. In either a sequential or simultaneous auction, it is critically important that potential bidders understand that there will be a substantial penalty assessed if they withdraw a high bid, are found not to be qualified to hold licenses or are unable to pay a balance due. Any bidder who withdraws a high bid during an auction before the Commission declares bidding closed, or defaults by failing to remit the required down payment within the prescribed time, will be required to reimburse the Commission in the amount of the difference

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<sup>24</sup> If the upfront payment already tendered by a winning bidder, after applying any bid withdrawal penalties, amounts to 20 percent or more of its winning bids, no additional deposit will be required. If the upfront payment amount on deposit is greater than 20 percent of the winning bid amount, then the additional monies will be refunded.

<sup>25</sup> As discussed *infra*, an auction winner that is a designated entity entitled to make payments through an installment plan will be required to bring its deposits with the Commission up to only 10 percent of its winning bid after the bidding closes. Such an entity will pay an additional 10 percent of its winning bid to the Commission upon grant of the license.

Wilson activity rule is too complicated or costly to administer, we may alternatively impose one of these less complex activity rules in auctions for larger narrowband PCS licenses as well. We will announce by Public Notice before each auction the activity rule that will be employed in that particular auction.

#### **IV. PROCEDURAL, PAYMENT AND PENALTY ISSUES**

##### **A. Pre-Auction Application Procedures**

41. In the Second Report and Order the Commission established general competitive bidding rules and procedures which we noted may be modified on a service-specific basis. As discussed below, we will follow the procedural, payment and penalty rules established in the Second Report and Order with certain minor modifications designed to address the characteristics of the narrowband PCS service. These rules are structured to ensure that bidders and licensees are qualified and will be able to construct systems quickly and offer service to the public. By ensuring that bidders and license winners are serious, qualified applicants, these rules will minimize the need to re-auction licenses and prevent delays in the provision of narrowband PCS service to the public. In addition, as we proposed Notice, we adopt general procedural and processing rules based on the Part 22 of the Commission's rules.<sup>18</sup>

42. Before each scheduled narrowband PCS auction the Commission, or pursuant to delegated authority, a Bureau, will release an initial Public Notice announcing the auction. This initial Public Notice will specify the license(s) to be auctioned and the time, place and

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the following other activity rules, which are described more fully in the Second Report, on a case-by-case basis: (1) a Milgrom-Wilson rule with one or two stages rather than three, (2) a requirement that bidders be active on a single license in each round, (3) a rule that a bidder's activity level remain within a single range throughout the auction (i.e., remain active on some percentage of the total pops-MHz covered by the upfront payment), (4) a rule that replaces the maximum allowed bidding levels in the Milgrom-Wilson rule with a bidding premium for exceeding those maximums, or (5) a combination of the foregoing rules. See Second Report and Order at ¶ 141.

<sup>18</sup> Notice at ¶ 129. We have modified Part 22 as necessary to reflect the somewhat different way in which narrowband PCS is licensed. Our Part 22 rules, for example, contemplate the filing of a separate application for each base station. Under Part 24, however, licensees receive a market-wide license. Applications for individual sites will not be accepted. Thus, we have modified the Part 22 rules for clearing individual antenna sites and based the antenna clearance process on Section 97.15 of our rules (47 C.F.R. § 97.15). Similarly, we have decided that narrowband PCS licensees should maintain a list of all current base station locations in lieu of filing a separate application for each base station.

method of competitive bidding to be used, including applicable bid submission procedures, bid withdrawal procedures and penalties, stopping rules and activity rules and other important information. The initial Public Notice will also specify the filing window for short-form applications.

43. All bidders will be required to submit short-form applications on FCC form 175 by the date specified in the initial Public Notice.<sup>19</sup> If the Commission receives only one application that is acceptable for filing for a particular license, and thus there is no mutual exclusivity, the Commission will by Public Notice cancel the auction for this license and establish a date for the filing of a long-form application, the acceptance of which will trigger the procedures permitting petitions to deny. In order to encourage maximum bidder participation, we will provide applicants with an opportunity to correct minor defects in their short-form applications prior to the auction. However, applicants will not be permitted to make any major modifications to their applications, including ownership changes or changes in the identification of parties to bidding consortia. In addition, applications that are not signed will be dismissed as unacceptable.

44. The Commission will issue a second Public Notice listing all defective applications and applicants with minor defects will be given an opportunity to cure and resubmit defective applications.<sup>20</sup> After reviewing the corrected applications, the Commission will release a third Public Notice announcing the names of all applicants whose applications have been accepted for filing. Applicants identified in the third Public Notice will then be required to submit the full amount of their upfront payment (defined below in ¶ 45) to the Commission's lock-box bank by the date specified in the Public Notice, which generally will be no later than 14 days before the scheduled auction. After the Commission receives from its lock-box bank the names of all applicants who have submitted timely upfront payments, the Commission will issue a fourth Public Notice announcing the names of all applicants that

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<sup>19</sup> Since Section 8 of the Communications Act, 47 U.S.C. § 158, does not currently afford the Commission authority to charge a fee in connection with PCS applications, narrowband PCS applicants will not be required to submit a fee with their short-form application. However, the Commission has requested that Congress amend Section 8 of the Communications Act to provide a specific fee for PCS services. If the Commission receives fee authority, the general rules governing submission of fees will apply. See 47 C.F.R. § 1.1101 *et seq.* These rules currently provide for dismissal of an application if the application fee is not paid, is insufficient, is in improper form, is returned for insufficient funds or is otherwise not in compliance with our fee rules.

<sup>20</sup> On the date set for submission of corrected applications, applicants that on their own discover minor errors in their applications (e.g., typographical errors, incorrect license designations, etc.) also will be permitted to file corrected applications.

between its high bid and the amount of the winning bid the next time the license is offered by the Commission, if the subsequent winning bid is lower.<sup>26</sup> After bidding closes, a defaulting auction winner will be assessed an additional penalty of three percent of the subsequent winning bid or three percent of the amount of the defaulting bid, whichever is less. See 47 C.F.R. §§ 1.2104 (g) and 1.2109.<sup>27</sup> The additional three percent penalty is designed to encourage bidders desiring to withdraw their bids, to do so before bidding ceases. This additional penalty will also apply if an auction winner is disqualified or fails to remit the balance of its winning bid after having made the required down payment. We will hold deposits made by defaulting or disqualified auction winners until full payment of the penalty.<sup>28</sup> We believe that these penalties will adequately discourage default and ensure that bidders have adequate financing and that they meet all eligibility and qualification requirements. In addition, if a default or disqualification involves gross misconduct, misrepresentation or bad faith by an applicant, the Commission also may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.<sup>29</sup>

50. In the event that an auction winner defaults or is otherwise disqualified after an auction is closed, an issue arises as to whether the Commission should hold a new auction or simply offer the license to the second-highest bidder. Parties commenting on this issue generally favored re-auctioning the license, pointing out that changing market and even technological developments since the initial auction may change the identity of the high bidder and the value of the license, especially if the intervening period is relatively long. See, e.g., comments of BellSouth at 37. They urge that any re-auction be open to new bidders,

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<sup>26</sup> In the unlikely event that there is more than one bid withdrawal on the same license, we will hold each withdrawing bidder responsible only for the difference between its withdrawn bid and the amount of the winning bid the next time the license is offered by the Commission. This procedure ensures that each bidder who withdraws is responsible for its bid.

<sup>27</sup> If a license is re-offered by auction, the "winning bid" refers to the high bid in the auction in which the license is re-offered. If a license which is the subject of withdrawal or default is instead offered to the highest losing bidders in the initial auction, the "winning bid" refers to the bid of the highest bidder who accepts the offer. Losing bidders would not be required to accept the offer, i.e., they may decline without penalty. We wish to encourage losing bidders in simultaneous multiple round auctions to bid on other licenses, and therefore will not hold them to their losing bids on a license for which a bidder has withdrawn a bid or on which a bidder has defaulted.

<sup>28</sup> In rare cases in which it would be inequitable to retain a down payment, we will entertain requests for waiver of this provision.

<sup>29</sup> See Second Report and Order at ¶ 198.

arguing that such a procedure would reduce the incentive of losing bidders to "gang up" on the auction winner. See comments of Utilities Telecommunications Council at 21.

51. As we stated in the Second Report and Order, we believe that, as a general rule, when an auction winner defaults or is otherwise disqualified after having made the required down payment, the best course of action is to re-auction the license either to existing or new applicants. Although we recognize that this may cause a brief delay in the initiation of service to the public, during the time between the original auction and the disqualification circumstances may have changed so significantly as to alter the value of the license to auction participants as well as to parties who did not participate. In this situation, awarding licenses to the parties that value them most highly can best be assured through a re-auction. However, if the default occurs within five (5) business days after bidding has closed, the Commission retains the discretion to offer the license to the second highest bidder at its final bid level, or if that bidder declines the offer, to offer the license to other bidders (in descending order of their bid amounts) at their final bid levels.<sup>30</sup>

52. If a new auction becomes necessary because of default or disqualification more than five (5) business days after bidding has ended the Commission will afford new parties an opportunity to file applications because so much time is likely to have passed that different parties may be interested in bidding and existing applicants may have different valuations of the license. One of our primary goals in conducting auctions is to assure that all serious interested bidders are in the pool of qualified bidders at any re-auction. We believe that achievement of this goal outweighs the short delay that we recognize may result from allowing new applications in a re-auction. Indeed, if we were not to allow new applicants in a re-auction, interested parties may be forced into an after-market transaction to obtain the license, which would itself delay service to the public and deny recovery by the government of a reasonable portion of the value of the spectrum.

53. If the winning bidder makes the down payment in a timely manner, a long-form application filed on FCC Form 401(as modified) will be required to be filed by a specified date, generally within ten (10) business days after the close of the auction.<sup>31</sup> After the

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<sup>30</sup> If only a small number of relatively low value licenses are to be re-auctioned, the Commission may choose to offer the license to the highest losing bidders since the cost of running an auction may not exceed the benefits.

<sup>31</sup> Schedule B to FCC form 401 will not be required to be submitted by narrowband PCS applicants. However, applicants for narrowband PCS licenses proposing to use any portion of narrowband PCS spectrum to offer service on a private mobile radio service basis must overcome the presumption that PCS is a commercial mobile radio service. Regulatory Treatment of Mobile Services. Second Report and Order in GN Docket No. 93-252, 9 FCC Rcd 1411, 1460-63 (1994); 47 C.F.R. Sec. 20.9(a)(11), (b). Applicants (or licensees) seeking to dedicate a portion of the spectrum for private mobile radio service, will be required to

Commission receives the winning bidder's down payment and the long-form application, we will review the long-form application to determine if it is acceptable for filing. Upon acceptance for filing of the long-form application, the Commission will release a Public Notice announcing this fact, triggering the filing window for petitions to deny. If the Commission denies all petitions to deny, and is otherwise satisfied that the applicant is qualified, the license(s) will be granted to the auction winner.

54. In the Notice, we proposed to adopt general processing and procedural rules for narrowband PCS based on Part 22 of the Commission's rules.<sup>32</sup> One commenter, AIDE, argues that the Commission's reference to proposed PCS rules are vague and legally insufficient for a Notice of proposed rulemaking. Comments of AIDE at 16-17. AIDE also asserts that the adoption of PCS processing and procedural rules are beyond the scope of the Notice in this rulemaking proceeding. *Id.* We disagree. The Notice sought comment on specific rule sections contained in Part 22 of our rules and asked commenters to indicate what modifications should be made to those rules to adapt them for PCS services. *See* Notice at ¶ 128. In addition, the Notice specifically requested comment on the general procedural, processing and petition to deny procedures that should be used for auctionable services. The Notice's proposal to adopt processing rules based on Part 22 of the Commission's rules, with any appropriate modifications for PCS services, clearly indicated to commenters the terms of the proposed rules, as is required by 47 C.F.R. § 1.413 (c). Accordingly, we believe that the Notice's description of the proposed rules was sufficiently specific to alert bidders to the substance of our proposal and to provide an adequate opportunity for comment on those proposals. Moreover, we conclude that these issues are well within the scope of, and in fact are essential, to implement competitive bidding for narrowband PCS licenses.

55. As we proposed, we adopt a modified version of the application processing rules contained in Part 22 of the Commission's rules for narrowband PCS. These rules will govern application filing and content requirements, waiver procedures, procedures for return of defective applications, regulations regarding modification of applications, and general application processing rules. We also adopt petition to deny procedures based on Section 22.30 of the Commission's rules. In addition, as we proposed in the Notice we adopt rules similar to Section 22.943 of our existing rules (47 C.F.R. § 22.943) to prevent the filing of speculative applications and pleadings designed to extract money from sincere narrowband PCS applicants. In this regard, we limit the consideration that an applicant or petitioner is permitted to receive for agreeing to withdraw a petition to deny or an application to the

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attach as an exhibit to the Form 401 application a certification that it will offer PCS service on a private mobile radio basis. The certification must include a description of the proposed service sufficient to demonstrate that it is not within the definition of commercial mobile radio service in Section 20.3 of the Commission's rules. *Id.*

<sup>32</sup> Procedural and processing Rules for broadband PCS will be established in a separate Report and Order.

legitimate and prudent expenses of the withdrawing applicant or petitioner. These rules are set forth in the attached Appendix.<sup>33</sup>

56. With regard to petitions to deny, we adopt expedited procedures consistent with the provisions of Section 309 (i) (2) of the Communications Act to resolve substantial and material issues of fact concerning qualifications.<sup>34</sup> This provision requires us to entertain petitions to deny the application of the auction winner if petitions to deny are otherwise provided for under the Communications Act or our Rules.<sup>35</sup>

57. As we indicated in the Second Report and Order, we conclude that the Commission need not conduct a hearing before denial if it determines that an applicant is not qualified and no substantial issue of fact exists concerning that determination. In the event that the Commission identifies substantial and material issues of fact in need of resolution, Section 309(i)(2) of the Communications Act permits in any hearing the submission of all or part of evidence in written form and allows employees other than administrative law judges to preside over the taking of written evidence. We will incorporate these principles into our narrowband PCS procedural rules.

#### **E. Procedures in Other Auction Designs.**

58. Single Round Bidding. Where we use sealed bidding, in addition to the information specified above, the initial Public Notice will specify the date on which sealed bids must be submitted. In single round sealed bid auctions, we will not require bidders to submit upfront payments because we believe that there is less risk of frivolous bidding when this auction design is used. We may, however, announce by Public Notice that bidders must tender the 20 percent down payment at the time they submit their bids in order to ensure payment of the penalty in case of bid withdrawal or default. In single round sealed bid auctions, we will require that bids be received on a date specified in the Public Notice and that bids clearly indicate the bidder's identification number and the auction and license to which the bid relates. Bidders submitting bids for more licenses than they are permitted to hold must also specify the order in which they wish to be awarded such licenses if they are the high bidder on more licenses than they are eligible to hold. After bids are submitted and evaluated, the Commission will issue a second Public Notice indicating all bidders who have

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<sup>33</sup> These interim procedural rules may be modified by the Commission in a separate rulemaking proceeding.

<sup>34</sup> 47 U.S.C § 309(j)(5) forbids the granting of licenses as a result of competitive bidding unless the Commission determines that the applicant is qualified.

<sup>35</sup> We sought comment on a proposal to utilize existing petition to deny procedures for auctionable services (such as certain private radio services) that do not now have petition to deny procedures. See NPRM at ¶ 110.

made timely bid submissions. After release of the second Public Notice, the Commission will issue a third Public Notice announcing the high bidders on each license.<sup>36</sup> If the 20 percent deposit has not already been submitted, then the high bidder will be required to submit the 20 percent down payment within five (5) business days after release of the Public Notice announcing the high bidders (if the 20 percent down payment has already been submitted, the Commission will simply deposit the high bidder's down payment).

59. In the case of single round bidding, the withdrawal and default penalties must be modified to reflect the fact that bids cannot be withdrawn during the course of an auction because there is only a single round of bidding. In this context, if a bid is withdrawn before the Commission releases the Public Notice announcing the high bidders, no harm is likely to occur and no penalty will be assessed because the Commission can easily designate in the Public Notice that the party with the next highest bid is the winning bidder. If, however, a high bidder in a single round auction defaults after release of the Public Notice announcing the high bidders, the licensing process is likely to be delayed. Therefore, in order to encourage bidders in single round auctions to avoid default and the associated delays, we will impose a default penalty if a high bidder withdraws, defaults or is otherwise disqualified after release of the Public Notice announcing the winning bidders. This penalty will be equal to the difference between the high bid amount and the amount of the next highest valid bid. A bid will be considered valid for this purpose if the bidder has not already been designated the winning bidder on more licenses than it is permitted to be awarded.<sup>37</sup> Losing bidders, may decline a defaulted license without penalty if such default occurs more than 30 days after the Commission releases the initial Public Notice announcing the winning bidders. This should afford the Commission sufficient time to identify a new winning bidder and collect its down payment in cases where the original winning bidder defaults or is disqualified. This also allows losing bidders to respond to changed circumstances after a reasonable period of time. Where a bidder defaults or is disqualified more than 30 days after the release of the initial Public Notice announcing the winning bidders the Commission retains the discretion to either offer the license to the bidder with the next highest valid bid at its original bid price or re-auction the license. If the Commission re-auctions the license, new applications will be accepted and the additional three percent penalty (discussed supra) will apply.

60. Oral Sequential Auctions. Where oral sequential bidding is employed, the general

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<sup>36</sup> If a tie occurs, bidders will be afforded the opportunity to submit another bid and the highest bidder in this round will be designated the winning bidder.

<sup>37</sup> Thus, bidders will be held to their bids on the maximum number of licenses they are permitted to hold. If there are multiple defaults each bidder will be responsible for the difference between its bid and the amount of the next highest valid bid. Holding each bidder in a single round auction responsible for the difference between its bid and the next highest valid bid will discourage cascading defaults, without penalizing bidders for bidding on more licenses than they are permitted to hold.

procedures described above will be followed with one exception. Qualified bidders will be required to bring a cashier's check for the full amount of their upfront payment to the auction site. Bidders will be required to display their upfront payment check as a condition of being issued a bidder identification number and admittance to the bidder section of the auction site. After bidding closes on a particular license, the high bidder will be asked to tender its upfront payment and sign a bid confirmation form. If the high bidder declines to tender the upfront payment and/or refuses to sign the bid confirmation form, no penalty will be assessed because the license would be immediately re-auctioned. The only damage from such withdrawal would be delay. And in an oral sequential auction such delay may be minimal. The standard default penalty and the additional three percent penalty (described *supra* at ¶ 49) will be assessed, however, if the bidder defaults on the 20 percent down payment, fails to pay for the license or is disqualified after the close of an auction.

## V. REGULATORY SAFEGUARDS

### A. Unjust Enrichment Provisions

61. The Budget Act directs the Commission to "require such transfer disclosures and anti-trafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits." 47 U.S.C. § 309(j)(4)(E). In the Second Report and Order, the Commission adopted safeguards designed to ensure that the requirements of Section 309(j)(4)(E) are satisfied.

62. In this Order we adopt specific rules governing unjust enrichment by designated entities, which are discussed below in Section VI. In addition, the transfer disclosure requirements contained in Section 1.2111 (a) of our rules will apply to all narrowband PCS licenses obtained through the competitive bidding process. Generally, applicants transferring their licenses within three years after the initial license grant will be required to file, together with their transfer application, the associated contracts for sale, option agreements, management agreements, and all other documents disclosing the total consideration received in return for the transfer of its license. As we indicated in the Second Report and Order we will give particular scrutiny to auction winners who have not yet begun commercial service and who seek approval for a transfer of control or assignment of their licenses after the initial license grant, in order to determine if any unforeseen problems relating to unjust enrichment have arisen outside the designated entity context. In addition, this reporting requirement will provide the Commission with valuable information that will enable us to evaluate how well the various auction methods have achieved our objectives.

### B. Performance Requirements

63. The Budget Act required the Commission to "include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by

licensees or permittees, and to promote investment in and rapid deployment of new technologies and services."<sup>38</sup> In the Second Report and Order we decided that it was unnecessary and undesirable to impose additional performance requirements, beyond those already provided in the service rules, for all auctionable services. The narrowband PCS service rules already contain specific performance requirements, such as the requirement to construct within a specified period of time. See, e.g., 47 C.F.R. § 24.103 Failure to satisfy these construction requirements will result in forfeiture of the license. Accordingly, we do not adopt any additional performance requirements in this order.

### **C. Rules Prohibiting Collusion**

64. In the Second Report and Order we adopted special rules prohibiting collusive conduct in the context of competitive bidding. See 47 C.F.R. § 1.2105 (c) We indicated that such rules would serve the objectives of the Budget Act by preventing parties, especially the largest firms, from agreeing in advance to bidding strategies that divide the market according to their strategic interests and disadvantage other bidders. These rules are applicable to all auctionable services including narrowband PCS. Generally, bidders will be required to identify on their Form 175 applications all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate to the competitive bidding process. Bidders will also be required to certify that they have not entered into any explicit or implicit agreements, arrangements or understandings with any parties, other than those identified, regarding the amount of their bid, bidding strategies or the particular properties on which they will or will not bid. After the short-form applications are filed and prior to the time that the winning bidder has made its required down payment, all bidders will be prohibited from cooperating, collaborating, discussing or disclosing in any manner the substance of their bids or bidding strategies with other bidders, unless such bidders are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application.

65. Winning bidders are required to attach as an exhibit to the Form 401 application a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement they had entered into relating to the competitive bidding process prior to the close of bidding. All such arrangements must have been entered into prior to the filing of short-form applications. Where specific instances of collusion in the competitive bidding process are alleged during the petition to deny process, the Commission may conduct an investigation or refer such complaints to the United States Department of Justice for investigation. Bidders who are found to have violated the antitrust laws or the Commission's rules in connection with participation in the auction process may be subject to forfeiture of their down payment or their full bid amount, revocation of their license(s), and may be prohibited from participating in future auctions.

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<sup>38</sup> See Section 309(j)(4)(B) of the Communications Act, as amended.

## **VI. DESIGNATED ENTITY PREFERENCES**

### **A. Introduction**

66. As discussed in the Second Report and Order, Congress mandated that the Commission "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services." 47 U.S.C. § 309(j)(4)(D). The statute requires the FCC to "consider the use of tax certificates, bidding preferences, and other procedures" in order to achieve this congressional goal. In addition, Section 309(j)(3)(B) provides that in establishing eligibility criteria and bidding methodologies the Commission shall promote "economic opportunity and competition . . . by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." 47 U.S.C. § 309(j)(3)(B). Finally, Section 309(j)(4)(A) provides that to promote these objectives the Commission shall consider alternative payment schedules including lump sums or guaranteed installment payments.

67. In the Second Report and Order we established the eligibility criteria and general rules that would govern the award of preferences for designated entities. We also established a menu of preferences, including installment payments, set-asides and bidding preferences that we could choose from in selecting the preferences that will be applicable to a particular service, and specified the circumstances under which a tax certificate program would be established. In addition, we set forth rules to prevent unjust enrichment by designated entities seeking to transfer licenses obtained through use of one of the preferences.

68. In this Report and Order we adopt specific preferences for narrowband PCS designed to ensure that designated entities are given the opportunity to participate both in the competitive bidding process and in the provision of narrowband PCS services. In particular, we adopt the following preferences:

(1) Businesses owned by women and minorities will be entitled to a 25 percent bidding credit applicable to three specified nationwide licenses (one 50/50 kHz paired, one 50/12.5 kHz paired, and one 50 kHz unpaired); ten specified regional licenses (one 50/50 kHz paired and one 50/12.5 kHz paired license in each region); and 153 specified MTA licenses (one 50/50 kHz paired, one 50/12.5 kHz paired, and one 50 kHz unpaired license in each MTA).

(2) Tax certificates will be issued to initial investors in minority and female-owned enterprises upon divestiture of their interests, and to licensees who transfer their authorizations to minority and female-owned businesses.

(3) Installment payments will be made available to small businesses for any of the

**FEDERAL COMMUNICATIONS COMMISSION  
INSTRUCTIONS FOR USING FCC FORM 159 (REMITTANCE ADVICE)  
AND FCC FORM 159-C (Continuation Sheet)**

**FCC FORM 159 — FCC Remittance Advice Form**

The FCC Form 159, "Remittance Advice" is a multi-purpose form that generally accompanies (see chart below for specific instructions) any payment to the Federal Communications Commission (e.g., Regulatory Fees, Processing Fees, Fines, Forfeitures, Freedom of Information Act (FOIA) Billings, or any other debt due to the FCC). The information on this form is collected to ensure credit for full payment, to expedite any refunds due and to service public inquiries.

**What Form Do I File?**

If you are:	Then:
Paying a Regulatory Fee to the Private Radio Bureau,	You <b>do not need</b> to submit FCC Remittance Advice, FCC Form 159. However, you must pay your regulatory fee along with your processing fee, at the time of renewal or at the time of original license application.
Paying a Processing Fee by money order or credit card to any FCC Bureau,	You must submit FCC Remittance Advice, FCC Form 159.
Paying a Processing Fee and paying for more than one action with a single payment,	You must submit FCC Remittance Advice, FCC Form 159.
Paying a Processing Fee for a service that does not require a specific FCC Form, (e.g. Request for Special Temporary Authority),	You must submit FCC Remittance Advice, FCC Form 159.
Paying a Processing Fee to the Private Radio Bureau for a service that requires FCC Form 155.	You must submit FCC Remittance Advice, FCC Form 159 instead of Form 155.
Paying a Regulatory Fee to any one of the Mass Media, Common Carrier or Cable Services Bureau,	You must submit FCC Remittance Advice, FCC Form 159.
Paying for Fines/Forfeitures, Freedom of Information Act Fees or any other debts.	All customers paying for any of these categories must submit a FCC Remittance Advice, FCC Form 159 and a copy of their notice or invoice to the appropriate lockbox. Please refer to the specific instructions accompanying your billing document.
Paying for an Auction,	You must submit FCC Remittance Advice, FCC Form 159. Consult the FCC's Public Notice for specific instructions.
Paying by wire transfer,	You must submit FCC Remittance Advice, FCC Form 159.
Paying by Western Union Quick Collect,	You must submit FCC Remittance Advice, FCC Form 159.

## Specific Form Instructions

(1) **FCC Account No.** — This is a self-assigned personal identification number that consists of ten digits. You **must** use your taxpayer identification number (TIN) with a prefix of "0" (e.g., 0123456789). **Only if you do not have a TIN**, you may use your ten-digit telephone number (e.g., 3012224567). **There are no other options available to you to create your FCC Account No.** This number will eventually be all you will need to file an application with the FCC, so once you have determined your FCC account number you must be sure to use this same number every time you send a payment to the FCC.

(2) **Total Amount Paid** — Enter the total amount of your remittance.

(3) **Payor Name** — Enter the name of the person or company (i.e., maker of the check) responsible for payment. Enter an individual name (last, first, middle initial). If a company, enter the name which is used commercially. If paying by credit card, complete this section with the full name of the cardholder.

(4) **Street Address (Line 1)** — The street address or post office box number to which correspondence should be sent.

(5) **Street Address (Line 2)** — This line may be used if further identification of the address is required.

(6) **City** — The name of the city associated with the street address given in (4).

(7) **State** — If the payor has a United States mailing address enter the appropriate two-digit state abbreviation as prescribed by the U.S. Post Office. If the payor has a mailing address outside the United States, leave this section blank.

(8) **ZIP Code** — Enter the appropriate five or nine-digit ZIP code prescribed by the U.S. Post Office. If address is foreign, enter the appropriate ZIP (postal) code.

(9) **Daytime Telephone Number** — Enter the payor's ten-digit daytime telephone number, including area code. For foreign telephone numbers include the appropriate country dialing access code, as if you were calling from the United States. [For example a United Kingdom number would have the prefix (011-44) followed by the number within the UK.] This daytime telephone number should tell us where you can be reached during normal business hours if necessary. If we cannot reach you at this number during normal business hours to resolve a problem, your filing may be returned.

(10) **Country Code** — This section is for those payors who have an address outside the United States of America. Enter the appropriate code here. To obtain country code information contact the Mailing Requirements Dept. of the U.S. Postal Service.

### **Read this before proceeding — IT MAY SAVE YOU TIME**

If the Applicant, Licensee, Regulatee or Debtor is the same as the Payor, it is not necessary to reenter your name and address in blocks 11, 13, 19, 20, & 21. However, you must complete all information in blocks 12, 14, 15, & 16. (FCC codes in blocks 17 & 18 will only be completed in special circumstances as described in a Public Notice or in your Fee Filing Guide).

(11) **Name of Applicant, Licensee, Regulatee or Debtor** — Enter the name (last, first, middle initial) as it appears on the original application or filing being submitted. If this is a company, enter name which is used commercially. Each unique applicant, licensee, regulatee or debtor must be listed separately if multiple applications or filings are submitted. If this name is the same as the payor, (block 3), it is not necessary to fill out this section.

(12) **FCC Call Sign/Other Identifier** — Enter an applicable call sign or unique FCC identifier, if any, as prescribed by the appropriate FCC Fee Filing Guide or Public Notice that applies to you.

(13) **ZIP Code** — It is not necessary to complete this section if the Payor, (block 3), is the same as the Applicant, Licensee, Regulatee or Debtor, (block 11). Enter the five or nine-digit ZIP code prescribed by the U.S. Post Office. If address is foreign, enter the appropriate country code here.

(14) **Payment Type Code** — This section tells us what you are paying for. Beginning with the first box, enter the correct 3 or 4 character alphabetic Payment Type Code. This code can be found in the FCC Fee Filing Guide or Public Notice appropriate to your payment. **Incorrect Payment Type Codes may result in your application or filing, if applicable, being returned to you without further processing.** You are allowed to file multiple actions. There are three ways "multiple actions" are defined. The following examples provide instructions on how multiple actions should be filed when using FCC Forms 159 & 159-C:

(i) If a single service allows for a quantity of more than one of the same action, as defined in the appropriate Fee Filing Guide or Public Notice, complete only blocks 12, 13, 14, 15 & 16. Only