

II. Auction  
Procedures, Terms  
And Conditions



# AUCTION PROCEDURES, TERMS AND CONDITIONS

## INTRODUCTION

The Federal Communications Commission ("FCC") will hold a simultaneous multiple round auction for 493 licenses to provide Personal Communications Services (PCS) in the 2 GHz band ("broadband PCS"). These licenses will authorize service on 30 MHz of spectrum over the 493 basic trading areas ("BTAs") in the United States and will be on frequency block C (one of the "Entrepreneurs' Blocks"). Frequency block C encompasses 1895-1910 MHz paired with 1975-1990 MHz.

The FCC plans to begin the auction on August 2, 1995. The precise schedule for bidding in the first week of the auction will be announced in a Public Notice at least two weeks prior to the start of the auction. Bidding will be conducted on each business day, unless otherwise announced, until bidding has closed on all licenses.

The auction headquarters will be at the FCC's auction facility, located at:

**The Postal Square Building  
2 Massachusetts Avenue, N.E.  
Washington, D. C. 20002**

**(Adjacent to Union Station, entrance on North Capitol Street)**

**During the auction, bidding will only be permitted from remote locations, either telephonically or electronically by computer.**

Those wishing to participate in the auction must submit a "short-form" application on FCC Form 175 in accordance with the Commission's rules and instructions in this Bidder's Information Package and the Public Notice (the "Auction Notice," enclosed herein) issued May 11, 1995. The FCC Form 175 must be received no later than 5:30 P.M. ET on June 15, 1995, and must be transmitted pursuant to the instructions set forth in this Bidder's Information Package. Applicants are strongly encouraged to file their FCC Form 175 electronically, although manual filing will be permitted (via hard copy). Electronic filing will enable applicants to receive interactive feedback while completing the application, and immediate acknowledgement that the FCC Form 175 has been submitted for filing. General filing information and detailed instructions regarding electronic filing are set forth in Part I of these Procedures, Terms and Conditions, titled "Pre-Auction Procedures".

Applicants whose FCC Form 175 has been accepted will be required to submit an upfront payment (in U.S. dollars), in conjunction with FCC Remittance Advice Form (FCC Form 159). **Applicants who do not submit at least the minimum upfront payment will not be eligible**

**to participate in the auction.** As detailed in this Bidder's Information Package and in the Auction Notice, the upfront payment must be made by wire transfer or cashier's check payable to the "Federal Communications Commission" or "FCC" and must be received no later than July 11, 1995, at the Mellon Bank in Pittsburgh, Pennsylvania. **No other form of payment will be accepted.**

In each of the 493 BTAs, one 30 MHz license on block C will be offered for bid. Portions of the offered spectrum are currently being used by incumbent microwave licensees, and PCS licensees may incur costs associated with relocating these incumbent users to other frequency bands. At Tab I. B., you will find a detailed listing of BTAs, with their FCC market number, market description, license number and population, as well as the upfront payment required to bid for that market.

The information contained in this Bidder's Information Package may be amended or supplemented. The FCC will issue Public Notices to convey the new or supplemental information to prospective bidders. It is the responsibility of all prospective bidders to maintain a current understanding of all FCC Rules and Public Notices pertaining to this auction. Copies of FCC documents, including Public Notices, may be obtained for a fee by calling International Transcription Services, Inc. at (202) 857-3800. Additionally, prospective bidders may retrieve some of these documents from the FCC Internet node via anonymous FTP @ fcc.gov.

The Procedures, Terms and Conditions are organized in three parts:

- Part I: Pre-Auction Procedures
- Part II: Auction Event
- Part III: Post-Auction Procedures

**All inquiries regarding this auction should be made to Hudson & Marshall Auctioneers at (202) 408-1322.**

## **Part I: PRE-AUCTION PROCEDURES**

To be eligible to bid in this auction, bidders must (i) satisfy the Commission's eligibility requirements, (ii) submit a short-form license application on FCC Form 175 (and Form 175-S if necessary), and (iii) remit an upfront payment in compliance with applicable FCC Rules. The eligibility requirements for participation in this auction are contained in § 24.709 of the FCC's Rules. In addition, installment payments are available to bidders in this auction. See § 24.711 of the Commission's Rules. Applicants that are small businesses and/or are owned by members of minority groups are also eligible for bidding credits. See § 24.712 of the Commission's Rules. Prospective applicants should carefully review each of the rules contained in Subparts A, B, E, H and I of Part 24 of our Rules, 47 C.F.R. §§ 24.1-24.5, 24.10-24.16, 24.200-24.238, and 24.701 et. seq.

**Applicants should note that they will be required to file supporting documentation to establish that they satisfy the eligibility requirements for this auction. See, 47 C.F.R. § 24.709. Applicants are also subject to audits to confirm eligibility.**

### **I. Eligibility to Bid on an Entrepreneurs' Block License**

The following is a summary of our requirements for applicants wishing to qualify for the broadband PCS entrepreneurs' blocks auctions. **This summary is not comprehensive and applicants should refer to all relevant Commission Orders and Rules for a more specific understanding of our requirements. Applicants also need to stay apprised of any rule changes that occur subsequent to release of this Bidder's Information Package.**

#### **A. Determining Basic Eligibility for the Entrepreneurs' Block**

To bid in the C block auction, an applicant must qualify as an **entrepreneur** by meeting certain financial caps. 47 C.F.R. § 24.709(a)(1). **Designated Entities** are applicants that, in addition to qualifying as entrepreneurs, fall into one or more of the following categories under our rules: **small businesses § 24.720(b), businesses owned by minorities and/or women § 24.720(c), and rural telephone companies § 24.720(e).** The general rule is that the gross revenues and total assets of all investors (together with their affiliates) in the applicant will be considered for purposes of determining whether the applicant meets our financial caps. 47 C.F.R. § 24.709(a).

##### **1. Control Group Exception**

We do not consider the gross revenues and assets of investors (together with their affiliates) that hold non-attributable equity interests in the applicant if the applicant has identified a **control group** that meets the requirements of our rules (*See* discussion below concerning attribution thresholds). A **control group** is comprised of investors that are in control of the

applicant and hold the minimum amount of equity (including voting equity) in the applicant that is specified under our rules. 47 C.F.R. §§ 24.709(b)(3), 24.709(b)(4), 24.709(b)(5), 24.709(b)(6), 24.720(j) 24.720(k). It is the composition of an applicant's control group that determines whether an applicant is eligible for certain bidding credits and installment payment plans available under our rules. See, e.g., 47 C.F.R. § 24.711(b)(4).

## 2. Options for Control Group Structure

There are two basic structures available to applicants that want to form a **control group** and exclude the gross revenues and assets of non-attributable investors from calculation of the financial caps. Option [a] may be used by all entrepreneurs' block applicants. Option [b] may only be used by businesses owned and controlled by minorities and/or women.

### a. 25 percent minimum equity option

The members of the control group must be in control of the applicant and hold 25 percent of the applicant's total equity. Of that 25 percent equity, 15 percent must be held by **qualifying investors**, that is, minorities, women or small or entrepreneurial business principals. 47 C.F.R. § 24.720(n). [See Exhibit 1; all exhibits are at the end of "Pre-Auction Procedures"]

The other 10 percent may be held by **qualifying investors** and/or by certain non-controlling investors that are identified in our rules. 47 C.F.R. § 24.709(b)(5)(i)(C). [See Exhibit 5] Outside of the control group, the remaining 75 percent of the applicant's equity may be held by other non-controlling investors, but no investor in the applicant can hold *more than 25 percent* of the equity and remain non-attributable. 47 C.F.R. § 24.709(b)(5)(i). A variation of this equity structure, available to any applicant whose sole control group member is a **preexisting entity** under our rules, allows **qualifying investors** in the control group to hold 10 percent of the applicant's equity and certain non-controlling investors (as described in our rules) in the **control group** to hold the remaining 15 percent portion of the total equity. 47 C.F.R. § 24.709(b)(5)(ii). [See Exhibit 2]

### b. 50.1 percent minimum equity option

The members of the control group must be in control of the applicant and hold at least 50.1 percent of the applicant's total equity. At least 30 percent of the applicant's total equity must be held by **qualifying minority and/or women investors** in the applicant's control group. The other 20.1 percent of the applicant's total equity must be held by **qualifying minority and/or women investors** and/or by certain other non-controlling investors specified in our rules. Outside of the control group, the remaining 49.9 percent of the applicant's equity may be held by a non-controlling investor who is considered non-attributable. 47 C.F.R. § 24.709(b)(6)(i). [See Attached Exhibit 3] A variation of this equity structure, available to any applicant whose sole control group member is a **preexisting entity** under our rules, allows **qualifying minority and/or women investors** in the control group to hold 20 percent of the applicant's equity and

certain non-controlling investors (as described in our rules) in the **control group** to hold the remaining 30.1 percent portion of the total equity. 47 C.F.R. § 24.709(b)(6)(ii). [See Exhibit 4]

### 3. Other Exceptions

If an applicant is a **consortium of small businesses**, the gross revenues and total assets of each small business will not be aggregated for purposes of determining financial eligibility. 47 C.F.R. §§ 24.709(b)(1), 24.709(b). Where the applicant is a **publicly-traded corporation with widely dispersed voting power**, the gross revenues and total assets of investors in the applicant, and its affiliates, are not considered for purposes of determining whether the applicant meets the financial caps. 47 C.F.R. § 24.709(b)(2). A **publicly-traded corporation with widely dispersed voting power** is defined in our rules. 47 C.F.R. § 24.720(m).

#### B. Determining Affiliation Interests

The general rule is that the gross revenues and total assets of all **affiliates** of the applicant are considered for purposes of determining whether the applicant meets our financial caps. An individual or entity is an **affiliate** of an applicant or of a person holding an attributable interest in an applicant when the individual or entity:

- has the power to directly or indirectly control the applicant; or
- is directly or indirectly controlled by the applicant; or
- is directly or indirectly controlled by the applicant's attributable investors or vice versa; or
- the individual or entity has an "identity of interest" with the applicant.

#### 47 C.F.R. § 24.720(l).

##### 1. Exceptions

We will not consider Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act, 25 U.S.C. §§ 2701 *et seq.*, to be **affiliates** of an applicant that is owned or controlled by such tribes or corporations or entities, except that gross revenues derived from gaming activities will be included in determining financial eligibility unless the applicant can show that it will not receive a substantial unfair competitive advantage because there are significant legal constraints on its ability to access these gross revenues. 47 C.F.R. § 24.720(l)(11)(i)

We will not consider an entity controlled by **members of minority groups** to be an **affiliate** of an applicant that qualifies as a **business owned by members of minority groups and/or women** if **affiliation** arises solely from control of the entity by members of the applicant's **control group** who are **members of minority groups**. 47 C.F.R. § 24.720(l)(11)(ii).

C. Special Provisions Available to All Qualified Entrepreneurs

Under our rules, all applicants are eligible for a variety of special provisions which include lower upfront payments, reduced down payments, and varying installment payment plans.

1. Lower Upfront Payment

Rather than the standard upfront payment of 2 cents per MHz-pop for non-entrepreneurs' block licenses, all bidders in the C block auction will have to pay an upfront payment of 1.5 cents per MHz-pop for the largest combination of MHz-pops that they wish to be eligible to bid on in any single round of bidding. 47 C.F.R. § 24.711(a)(1).

2. Reduced Down Payments

All winning applicants in the entrepreneurs' block will have to pay 10 percent of the winning bid as a down payment. One half (5%) will be due within 5 business days after the close of the auction, and the other half (the remaining 5%) will be due within 5 business days after grant of the application. 47 C.F.R. § 24.711(a)(2).

3. Installment payments.

47 C.F.R. § 24.711(b). Payment of principal and interest over the ten year license is required as follows:

Entrepreneurs with gross revenues exceeding \$75 million in two preceding years	10 yr. U.S. T-note + 3.5%
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Entrepreneurs with gross revenues between \$40-\$75 million	1 yr moratorium on principal 10 year U.S. T-note + 2.5%
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D. Special Provisions for Designated Entities

Under our rules, **designated entity** applicants may be eligible for a variety of special provisions that include varying installment payment plans, bidding credits, and geographic partitioning.

1. Installment payments

47 C.F.R. § 24.711(b). Payment of principal and interest over the ten year license term is tailored to meet the needs of various designated entity groups as follows:

Small businesses with gross revenues ≤ \$40 million	2 yr moratorium on principal 10 year U.S. T-note + 2.5%
Minority and/or women-owned businesses	3 yr moratorium on principal 10 year U.S. T-note rate
Small businesses owned by minorities and/or women	6 yr moratorium on principal 10 year U.S. T-note rate

2. Bidding Credits

Designated entities are eligible to receive a discount on the price a winning applicant bids for a license. (*Only* applicable to small business and businesses owned by minorities and/or women.) 47 C.F.R. § 24.712. [See Exhibit 6]

Small business:	10% bidding credit
Business owned by members of minority groups and/or women:	15% bidding credit
Small business owned by members of minority groups and/or women:	25% bidding credit.

3. Geographic Partitioning

*Only* applicable to rural telephone companies. 47 C.F.R. § 24.714.

E. Restrictions on Transfer or Assignment of Licenses and Other Rules

Applicants are subject to restrictions on transfer or assignment of licenses during specified holding periods. 47 C.F.R. § 24.839. Also, during the term of the license, our rules require licensees to compensate the U.S. Treasury for any unjust enrichment gained when a licensee is no longer eligible for bidding credits and installment payments as a result of changes in ownership structure. 47 C.F.R. §§ 24.711(c) and 24.712(d). There are also a limits on the number of licenses that can be won by any one bidder in the C and F block auctions. 47 C.F.R. § 24.710.

## II. Short Form Application (FCC Form 175)

In order to be eligible to bid, applicants must submit an FCC Form 175 application to the Commission. **This application must be received by 5:30 P.M., Eastern Time on June 15, 1995. Late applications will not be accepted.** Applications may be submitted either electronically, by hand delivery or by certified U.S. mail (return receipt requested).

### A. FCC Form 175 Filing Options

Auction applicants will have the opportunity to file their applications either electronically or manually (via hard copy). Electronic filing will enable the applicant to: 1) receive interactive feedback while completing the application, and 2) receive immediate acknowledgement that the FCC Form 175 has been submitted for filing. The following is a brief description of each filing method:

#### 1. Electronic Filing of FCC Form 175 Applications.

The Commission recently implemented a remote access system to allow applicants to submit their FCC Form 175 application electronically. The remote access system for initial filing of the FCC Form 175 applications will generally be available 24 hours per day beginning on Tuesday, May 30, 1995. FCC Form 175 applications that are filed electronically using this remote access system must be submitted by 5:30 P.M. Eastern Time on June 15, 1995. Late applications or unconfirmed submissions of electronic data will not be accepted. The electronic filing process consists of an initial filing period and a resubmission period to make minor corrections.

Applicants who file their FCC Form 175 application electronically will not be required to transmit an original or electronic signature. However, by submitting the form electronically, the certifying official has made representation that they are an authorized representative of the applicant for the license(s) selected, and that they have read the instructions and the certifications and all matters and things stated in the application and attachments, including exhibits, are true and correct.

The remote FCC Form 175 submission software will prompt the applicant for an FCC Account Number. The FCC Account number that is required to login to the software is the same as what is required in Item 7 of the FCC Form 175 application. This number will be used to identify and track applications. Applicants must create this number using their taxpayer identification number (TIN) with a prefix of "0", i.e., 0123456789. If, and only if, an applicant does not have a taxpayer identification number, the applicant may use its ten digit area code and telephone number (i.e., 5552345678).

In addition, the applicant will be required to enter a self-assigned password. This password must be entered in **BOTH** the password and the verify password fields. Be careful when entering the passwords since the data entry is **case sensitive**. The applicant will need to remember the exact spelling of the password and keep it secure. In the event that an applicant

loses its password to the remote electronic filing system, the applicant must notify the FCC Technical Support Hotline at (202) 414-1260 and will be required to obtain a replacement code in person at the auction site located at 2 Massachusetts Avenue, NE in Washington, D.C. Only the certifying official or one of the authorized bidders will be able to obtain a replacement password and two forms of identification will be required (at least one of which must be a photo identification). To ensure the security of the filed applications, replacement passwords will not be provided over the telephone.

**Further, if an applicant exits the FCC Form 175 without ever submitting the application, the password associated with that FCC Account Number and any data entered will NOT be saved.**

The FCC Form 175 submission software contains six main screens. The first screen is the "Profile" screen which is used to capture the general FCC Form 175 information. The second screen is the "Licenses" screen which is used to select the licenses for which the applicant wishes to apply. The third screen provides the "Required Certifications" as listed on the FCC Form 175. Applicants should read the "Required Certifications" prior to submitting their application. The fourth and fifth screens are used to submit the required "Ownership" information. **Applicants must provide their ownership documentation in an ASCII Text (.TXT) file format.** The last screen provides the instructions for filing the FCC Form 175.

The remote FCC Form 175 submission software also provides the electronic filers with the ability to backup the FCC Form 175 data if they wish to save the information as a text file (.TXT). **If the applicant exits the remote access system prior to submitting their FCC Form 175 the information that they entered during the session will not be saved.**

The electronic filing method will capture all of the information required on the FCC Form 175 and will electronically submit the application to the FCC when the Form 175 has been properly completed and the applicant presses the submit button. The system will provide interactive error messages to help ensure the application contains the required information. Applicants that file their FCC Form 175 applications electronically through the FCC remote access system will be able to print their completed application once it has been submitted. The Commission encourages electronic filers to print their submitted applications since the printed copy will serve as confirmation of receipt by the Commission.

After the initial submission period deadline (5:30 P.M. Eastern Time on June 15, 1995) the Commission will issue a Public Notice which will identify accepted, incomplete and rejected applications and the markets in which each applicant has applied. **All applications are still subject to FCC approval. Applicants who submit their FCC Form 175 electronically will need to check the Public Notices to verify acceptance of their application.**

During the resubmission period, applicants can make minor corrections to their FCC Form 175 applications electronically. Applicants will not be permitted to modify their license selection(s), change their certifying official, or change control of the applicant. If the FCC Form 175 is initially submitted electronically, then any modifications to the form must also be submitted electronically. Further, minor modifications to FCC Form 175 applications must be

submitted prior to the deadline for resubmissions stated in the Public Notice that identifies the accepted, incomplete and rejected applications.

Once the Public Notice is released which identifies the accepted, incomplete, and rejected applications, remote access system users will be allowed to review other applicant's FCC Form 175 applications on-line.

The FCC Form 175 review software may be used to review and print other applicant's FCC Form 175s. It also provides the ability to download other applicant's FCC Form 175s once the FCC Form 175 resubmission period has started.

The remote access system for initial filing of the FCC Form 175 applications will generally be available 24 hours per day beginning on Tuesday, May 30, 1995 and ending on June 15, 1995 at 5:30 p.m. Once the Public Notice that identifies the accepted, incomplete and rejected applications has been released by the Commission, the remote access system will be available generally on a 24 hour basis for resubmission of FCC Form 175 applications to make minor corrections and for the public to access other FCC Form 175 filings. During certain FCC required timeframes the system may not be available due to internal maintenance and processing requirements or other unforeseen technical difficulties. A message will be provided when access is denied.

**The Commission will prohibit submission of FCC Form 175 applications after the deadline and encourages applicants to file their applications early in order to ensure that their applications are submitted and confirmed prior to 5:30 P.M. ET on June 15, 1995.**

After the FCC Form 175 has been successfully submitted, the FCC Form 159 (FCC Remittance Advice Form) will be generated and displayed on the screen for completion. This part of the program will allow the applicant to prepare and print its FCC Form 159 which must accompany its upfront payment to participate in the auction. Certain information will automatically appear on the screen based on the information entered on the applicant's FCC Form 175 application (i.e., the name and address of the applicant, the payment type code, the FCC Code 1 (auction number), etc.). The FCC Form 159 should be completed, submitted and printed. The printed copy must accompany an applicant's upfront payment if the applicant is paying by cashier's check or must be faxed to Mellon Bank at (412) 236-5702 if the applicant wishes to submit its upfront payment by wire transfer. (See instructions for making auction payments.)

Those applicants who wish to file their FCC Form 175 electronically or review other FCC Form 175 applications on-line will need to carefully review Tab III. A. of this Bidder's Information Package. For technical assistance in downloading, extracting or installing the FCC application software contact the FCC Technical Support Hotline at (202) 414-1260.

## 2. Manual Filing (Hard Copy Filing)

Auction applicants will be permitted to file their FCC Form 175 applications in hard copy, with microfiche copy attachments, if applicable (for this auction the FCC will allow submission

of a 3.5" diskette, in lieu of microfiche, which contains ASCII text (.TXT) files of all ownership documentation attached to the FCC Form 175). A copy of the FCC Form 175 and FCC Form 175-S (Supplemental Form) are located in Tab IV. A. Manually filed applications must be addressed to:

Office of the Secretary  
Attn: Auction 5 Short-Form Processing  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**Applications will not be accepted if delivered to any other location. Applicants who wish to file manually should note that the FCC Form 175 has been revised. The new FCC Form 175 application is marked "Revised 1/95" in the lower right corner. Only the revised form will be accepted for filing.**

**B. FCC Form 175 General Information**

The FCC Form 175 has been revised to reflect the rules governing an Entrepreneurs' Block auction. Because of the significance of the FCC Form 175 application to the auction, it is important to note the following information. Applicants will be required to complete all items on FCC Form 175. Applicants should carefully review §§ 1.2105(a)(2), 24.705, and 24.813 of the Commission's Final Rules. Bidders should also note the following:

1. Applicants should apply for all licenses on which they want to be eligible to bid in the auction. Bids will not be accepted on licenses for which an applicant has not applied on its FCC Form 175.

2. The Entrepreneurs' Block auction will be the fifth auction conducted by the FCC. For "Auction No." in item 6 of FCC Form 175, applicants should enter "5."

3. Applicants are required to create a ten-digit FCC Account Number, which the Commission will use to identify and track applicants. Each applicant must create this FCC account number by using its taxpayer identification number (TIN), if it has one, with a prefix of '0', i.e., 0123456789. If an applicant does not have a taxpayer identification number, the applicant should use its ten-digit area code and telephone number (i.e., 5552345678). Each applicant must include its FCC Account Number when submitting any amendments, additional information or other correspondence regarding its application, and must include this number on each FCC Form 159 (FCC Remittance Advice) accompanying required auction deposits or payments submitted to the Commission. This number also must be used whenever an applicant writes, calls, or otherwise inquires about its application. Applicants will also need this number to register and bid in the auction.

4. In items #9 and #10 (of the FCC Form 175) applicants must indicate their eligibility to participate in this auction and their Designated Entity Status if applicable. Designated Entities include rural telephone companies, small businesses, and businesses owned

by members of minority groups or women. All applicants should pay particular attention to the provisions of 47 C.F.R. §§ 24.709 and 24.720. In accordance with 47 C.F.R. § 24.709(c)(d), the FCC will conduct random audits to ensure that applicants meet the eligibility requirements.

5. Applicants will have to identify on the FCC Form 175 the market number for each block C license on which they want to bid. The market number for each BTA is listed in Tab I. B. The upfront payment amount is also included so that applicants can calculate the upfront payment amount required to be eligible to bid on the maximum number of MHz-pops in any single round of bidding. Applicants should note that the BTAs have been organized by population within the corresponding Major Trading Area ("MTA"). BTA service areas are based on Rand McNally 1992 Commercial Atlas & Marketing Guide, 123rd Edition, at pages 38-39 ("BTA/MTA Map"). Rand McNally organizes the 50 states and the District of Columbia into 487 BTAs. Six additional BTA-like areas will be licensed separately, they are:

- (a) American Samoa
- (b) Guam
- (c) Northern Mariana Islands
- (d) Mayagüez/Aguadilla-Ponce, Puerto Rico. Consisting of the following municipios: Adjuntas, Aguada, Aguadilla, Añasco, Arroyo, Cabo Rojo, Coama, Guánica, Guayama, Guayanilla, Hormigueros, Isabela, Jayuya, Juana Díaz, Lajas, Las Marías, Mayagüez, Maricao, Maunabo, Moca, Patillas, Peñuelas, Ponce, Quebradillas, Rincón, Sabana Grande, Salinas, San Germán, Santa Isabel, Villalba, and Yauco.
- (e) San Juan, Puerto Rico (including all other municipios not included in Mayagüez/Aguadilla-Ponce)
- (f) United States Virgin Islands

6. Applicants will be required to list the name(s) of the person(s) (up to a maximum of three) authorized to represent them at the auction. **Only those individuals listed on the FCC Form 175 will be authorized to place or withdraw bids for the applicant during the auction.**

7. Applicants should read the "Certifications" listed on the FCC Form 175 carefully before signing their manually filed application. Applicants who file their FCC Form 175 application electronically will not be required to transmit an original or electronic signature. However, by submitting the form electronically, the certifying official has made representation that they are an authorized representative of the applicant for the license(s) selected, and that they have read the instructions and the certifications and all matters and things stated in the application and attachments, including exhibits, are true and correct. These certifications help to ensure a fair and competitive auction and require, among other things, disclosure to the Commission of certain information on applicant ownership and agreements or arrangements concerning the auction. **Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, and ineligibility to participate in future auctions, and/or criminal prosecution.**

8. If the Commission wishes to communicate with the applicant by telephone or fax, those communications will be directed to the contact person identified on the FCC Form 175. A space is provided for both a telephone number and a fax number. All written communications and registration information will be directed to the applicants contact person at the address specified on the FCC Form 175. (Applicants must provide a street address; no P.O. box addresses should be used.)

9. § 24.813 of the Commission's Rules requires each applicant to submit certain ownership information as an exhibit to its FCC Form 175 application. Specifically, each applicant must attach:

(a) A list of its subsidiaries, if any. Subsidiary means any business five percent or more whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, stockholder or key management personnel of the applicant. This list must include a description of each subsidiary's principal business and a description of each subsidiary's relationship to the applicant.

(b) A list of its affiliates, if any. Affiliates means any business which holds a five percent or more interest in the applicant, or any business in which a five percent or more interest is held by another company which holds a five percent interest in the applicant (e.g., Company A owns 5% of Company B (the applicant) and 5% of Company C; Companies A and C are affiliates).

**Please note the following information in regard to items (a) and (b) above:**

**The FCC waives the information disclosure requirement of Section 24.813(a)(1) and 24.813(a)(2) with respect to other, outside ownership interests of attributable stockholders of applicants, except that direct, attributable ownership interests in other Commercial and Private Mobile Radio Service licensees or applicants shall be disclosed on the FCC Form 175. All long-form (FCC Form 600) reporting requirements will continue to apply.**

(c) A list of names, addresses, citizenship and principal business of any person holding five percent or more of each class of stock, warrants, or options or debt securities together with the amount and percentage held, and the name, address, citizenship and principal place of business of any person on whose account, if other than the holder, such interest is held. If any of these persons are related by blood or marriage, include such relationship in the statement.

(d) In the case of partnerships, the name and address of each partner, each partner's citizenship and the share of interest participation in the partnership. This information must be provided for all partners, regardless of their respective ownership interests in the partnership.

10. Applicants must attach an exhibit identifying all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the competitive bidding process of Auction No. 5.

11. As a convenience to applicants, the FCC has provided a "FCC Form 175 Organizational Guidelines and Checklist for Attachments." See Tab IV. B. For expediency of processing, we hope that applicants will choose to file the information in the order set forth in the checklist. While this format is not required, it may make the information provided easier to process which will be of benefit to the applicant.

12. Microfiche copies of manually filed FCC Form 175 and 175-S are required for all submissions in excess of five pages in accordance with § 24.806(e) of the Commission's rules. However, for this auction the FCC will allow submission of a 3.5" diskette, in lieu of microfiche, which contains ASCII text (.TXT) files of all ownership documentation attached to the FCC Form 175.

**Failure to sign a manually filed FCC Form 175 and/or submit the required ownership information (both electronic and manual filers) will result in dismissal of the application and inability to participate in the auction. Only original signatures will be accepted for manually filed applications.**

C. Application Fee.

There is no application fee required when filing a FCC Form 175. However, to be eligible to bid, an applicant will have to submit an upfront payment. See Section III below.

D. Procedures after FCC Form 175 Applications are filed and processed for Minor Corrections.

After the deadline for filing FCC Form 175 applications has passed, the Commission will process all applications to determine whether they are acceptable for filing. The Commission will issue a Public Notice listing all applications which are accepted for filing, rejected, and those which have minor defects that may be corrected. The Public Notice announcing accepted, incomplete, and rejected applications will also announce the deadline for filing corrected applications. As described more fully in the Commission's Rules, applicants may make only minor corrections to their FCC Form 175 applications. 47 C.F.R. § 24.822. Applicants will not be permitted to make major modifications to their applications.

After the deadline for resubmitting corrected applications, the Commission will release another Public Notice announcing all applications that have been accepted for filing.

E. Qualified Applicant Seminar

All applicants whose FCC Form 175 have been accepted for filing will be eligible to attend an Auction Workshop Seminar in Washington D.C. on June 28th and 29th, 1995. This seminar will provide applicants with detailed instructions and assistance in the processing and filing of the FCC Remittance Advice Form (FCC Form 159) which is required with all upfront payments. Additional topics to be covered include: FCC Bid Submission Software, available bidding options, auction rules and procedures. A bidding demonstration will also be conducted. Please see Tab III.B for the seminar registration form.

### **III. Upfront Payments**

In order to be eligible to bid at the auction, applicants must submit an upfront payment together with an FCC Remittance Advice Form (FCC Form 159). A sample FCC Form 159 and instructions for making upfront payments are contained in Tab IV of this Bidder Information Package. **Please note: Payments made by cashier's check must be received by 11:59 P.M. Eastern Time, July 11, 1995. Payments made by wire transfer must be received by 3:00 P.M. Eastern Time, (not 6:00 P.M. as indicated in the Public Notice released May 11, 1995) July 11, 1995 in order to be recorded as received. Failure to accurately complete the FCC Form 159 could result in a delay in processing your remittance.**

All payments must be made in U.S. dollars, must be in the form of a wire transfer or cashier's check, and must be made payable to the "Federal Communications Commission" or "FCC." No other form of payment will be accepted. Cashier's checks must be drawn on a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

#### **A. Making Auction Payments by Cashier's Check**

Each cashier's check and corresponding FCC Remittance Advice Form (FCC Form 159) must be in an separate envelope, (only one check and one FCC Form 159 is required to be submitted with the upfront payment) addressed to:

**Mellon Bank  
Attention: Auction No. 5  
P.O. Box 358850  
Pittsburgh, PA 15251 - 5850**

If delivering an auction payment in person or by courier, the cashier's check and FCC Remittance Advice Form ( FCC Form 159) must be delivered to:

**Mellon Bank  
Attention:  
Wholesale Lockbox Shift Supervisor  
27th Floor (153-2713)  
3 Mellon Bank Center  
525 William Penn Way  
Pittsburgh, PA 15259 - 0001  
(Note: Please indicate on the inside envelope "Lockbox No. 358850".)**

#### **B. Making Auction Payments by Wire Transfer**

If making an auction payment by wire transfer, an applicant must fax a completed FCC Remittance Advice Form (FCC Form 159) to Mellon Bank at (412) 236-5702 at least one hour prior to placing the order for the wire transfer (but on the same business day). On the cover

sheet of the fax, the applicant should write "Wire Transfer - Auction Payment for Auction Event #5". To submit funds by wire transfer, you will need the following information:

**ABA Routing Number: 043000261**  
**Receiving Bank: Mellon Pittsburgh**  
**BNF: FCC/AC-9116106**  
**OBI Field: (Skip one space between each information item)**  
**"AUCTIONPAY"**  
**FCC ACCOUNT NO. (SAME AS FCC FORM 159, BLOCK 1)**  
**PAYMENT TYPE CODE (SAME AS FCC FORM 159, BLOCK 14)**  
**FCC CODE (SAME AS FCC FORM 159, BLOCK 17)**  
**PAYOR NAME (SAME AS FCC FORM 159, BLOCK 3)**  
**LOCKBOX NO. 358850**

**Failure to deliver the upfront payment in a timely manner will result in dismissal of the application and disqualification from participation in the auction.**

The upfront payment for Auction No. 5 is \$0.015 per MHz-pop for the largest combination of MHz-pops upon which a bidder wishes to bid in a single round of bidding. The upfront payment submitted by each applicant is not attributed to specific licenses but instead will define the maximum amount of MHz-pops on which the applicant will be permitted to bid in any single round of bidding. The upfront payment amounts for the licenses to be auctioned in each BTA are listed in Tab I. B.

In calculating the upfront payment amount, an applicant should determine the maximum number of MHz-pops on which it wishes to bid in any single round and submit an upfront payment covering that number of MHz-pops. In this auction, all of the licenses are for 30 MHz of spectrum. Thus, if an applicant wants to be eligible to bid in any single bidding round on licenses in BTAs with a total population of 750,000 persons, the applicant must submit an upfront payment of \$337,500 (30 MHz times 750,000 times \$0.015).

**An applicant may, on its FCC Form 175, apply for every license being offered, but its actual bidding in any round will be limited by the MHz-pops reflected in its upfront payment. As explained under Activity Rules, in Part II of the Procedures, Terms and Conditions, bidders will be required to remain active in each round of the auction on a specified percentage of the MHz-pops for which they are currently eligible.**

#### **IV. Registration for the Auction**

Only qualified applicants who have submitted timely upfront payments will be permitted to register for the auction. **Registration materials will only be sent to the address and contact person identified in an applicant's FCC Form 175.** All registration is completed prior to the auction in two separate over-night mailings. The first registration package will include the bidder's login code and login password. A second registration mail-out will include the bidder's

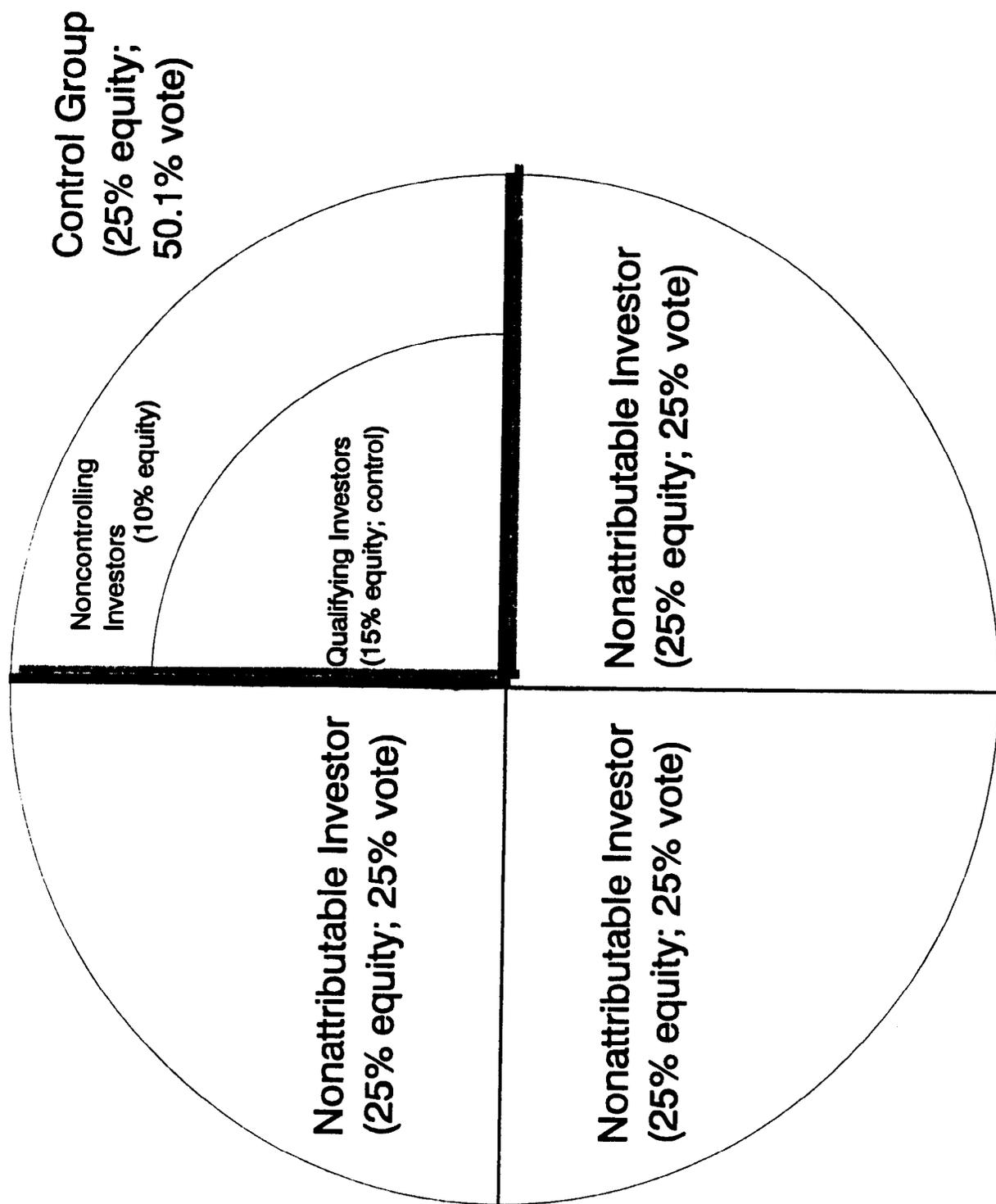
identification number and a schedule for bidding in the first week of the auction. At the end of the registration mail-out process bidders should be in possession of the following information:

- FCC Account Number (self-assigned on the FCC Form 175))
- Login password
- Login code
- Bidder identification number

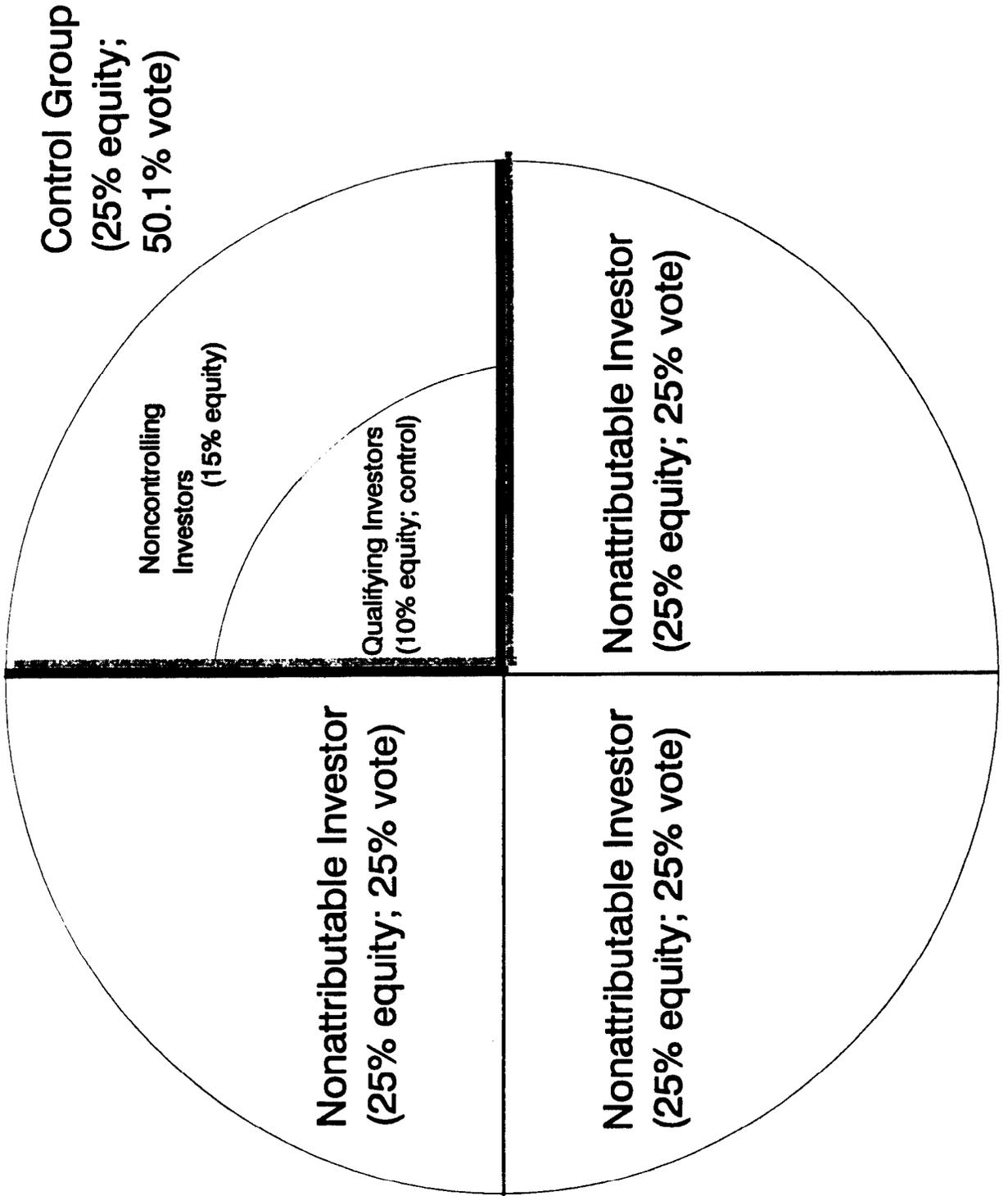
After an FCC Public Notice announcing qualified applicants is released the auction registration process will begin. The two over-night mailings will take place within three to five business days of each other. Any applicant who has not received both mailings eight business days after the release of the Public Notice should contact Hudson & Marshall at (202) 408-1322. All applicants will be pre-registered prior to the auction event; **no on-site registration will be available.**



# Attribution Rule (25% Option)



# Attribution Rule (25% Option) -- Sole Control Group Member



# Attribution Rule (50.1% Option)

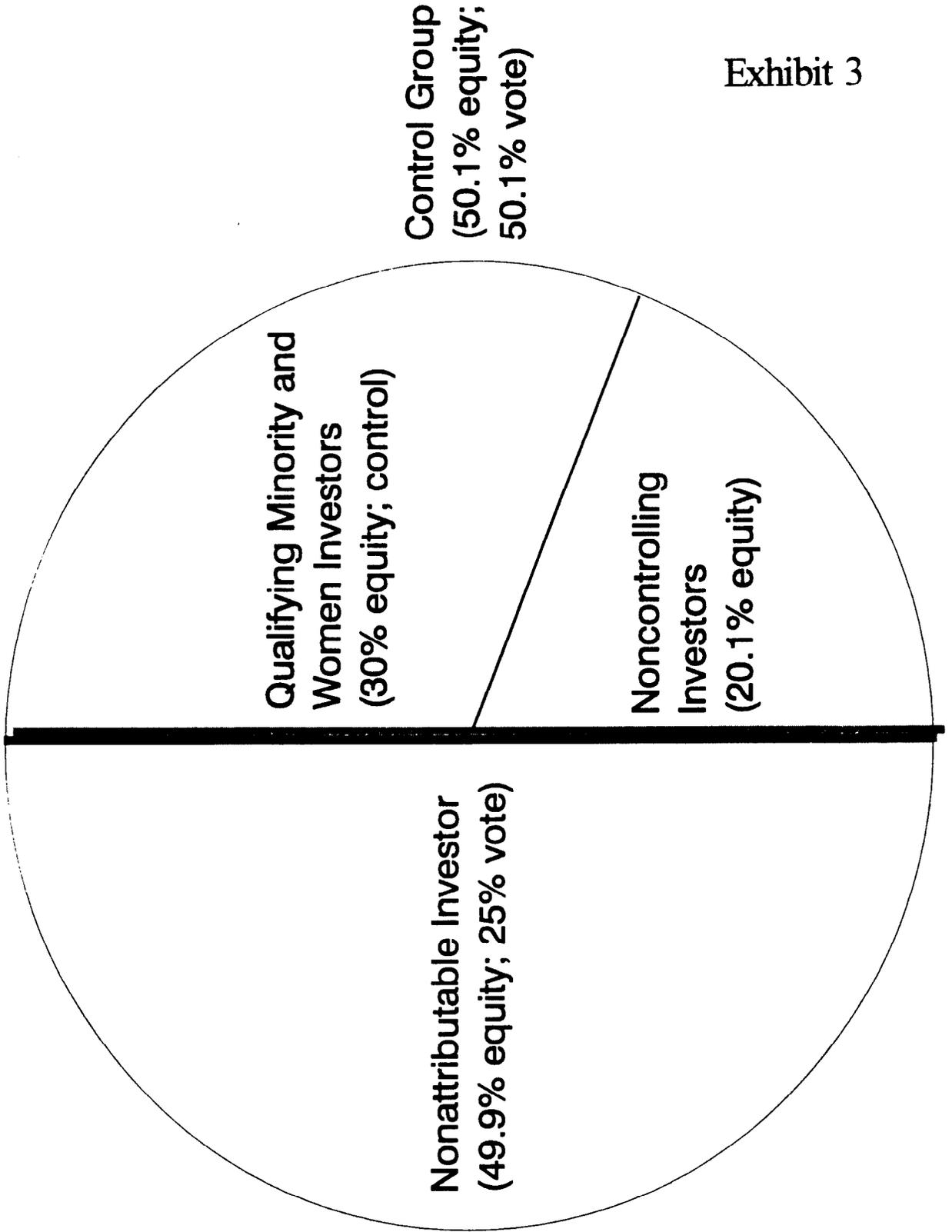


Exhibit 3

**Attribution Rule (50.1% Option) --  
Sole Control Group Member**

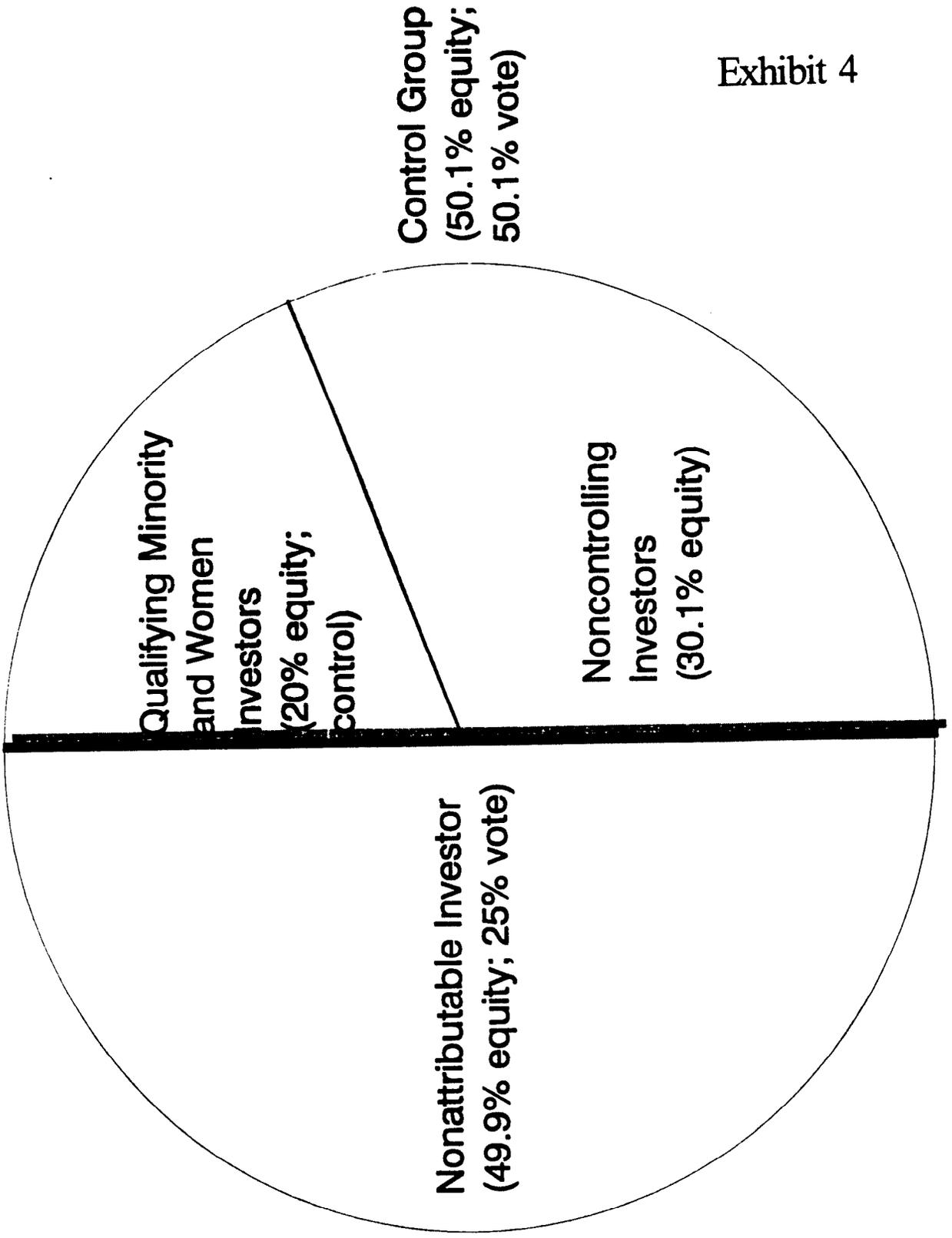


Exhibit 4

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Exhibit 5

**Non-controlling Equity in the Control Group**

Who can hold it?

- Qualifying Investors
- Non-controlling Individual Management Team Members
- Non-controlling Existing Investors of Otherwise Qualifying Preexisting Companies
- Non-controlling Institutional Investors

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Exhibit 6

**Bidding Credits**

- Small Business 10%
- Minority/Women Owned Business 15%
- Small/Minority/Women Owned Business 25%



## **Part II:**

## **AUCTION EVENT**

The Auction will begin at 12:00 noon Eastern Time on August 2, 1995. The precise schedule for bidding in the first week of the auction will be announced, by Public Notice two weeks prior to the start of the auction. Bidders will have the option of bidding electronically or telephonically. There will be no on-site bidding allowed for this auction. During the course of the auction, bidders will be permitted to alternate between the remote electronic and telephonic bidding methods as necessary.

Qualified bidders must be aware that lost login codes, passwords or bidder identification numbers can only be replaced at the FCC Auction Center located at 2 Massachusetts Avenue, NE, Washington, DC 20002. Additionally, only an authorized representative or certifying official, as designated on an applicants FCC Form 175, must appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes.

Generally there will be one bidding round per day during the first week of the auction. Each bidding round contains the following performance and review periods:

- Bid submission period
- Bid submission round results
- Bid withdrawal period
- Final round results

The times of the bidding periods for the first week will be included in the second registration mail-out and by Public Notice. The Commission may, however, increase or decrease the amount of time for bid submission as well as the number of rounds per day depending upon the bidding activity level and the aggregate amount of high bids.

Bids must be submitted before the conclusion of the bid submission period and bid withdrawals must be submitted before the conclusion of the bid withdrawal period. Bidders may print a hard copy confirmation to their local printer after electronic bid submission or after withdrawing a high bid electronically. Telephonic bidders will be required to provide a fax number to the bid operator and will receive an automatic fax back confirmation of their bid submission or high bid withdrawal.

All FCC auction announcements will be available on the FCC remote electronic bidding system and through Internet and the FCC Bulletin Board System. The FCC will announce such items as the schedule for bid submission and bid withdrawal periods. The FCC will make a further announcement if it decides to extend a period. If a period is extended, the time remaining clock on the bid submission and bid withdrawal screens will automatically be refreshed to reflect the change.

Round results will be available within approximately fifteen minutes after the conclusion of each period on the FCC electronic bidding system, via Internet and the FCC Bulletin Board System. The FCC electronic bidding system provides the flexibility for a user to define their own file formats. Round results file formats will be available through Internet and the FCC Bulletin Board System and are included in Tab III. A. of this Bidder's Information Package.

## **I. Auction Procedures**

The block C BTA broadband PCS licenses will be awarded through a simultaneous multiple round auction. Bids will be accepted on all licenses in each round of the auction (See infra section II.C for specific information about stopping rules). High bid amounts will be posted after the end of the bid submission period in each round of bidding. In addition, information regarding all valid bids submitted and all bid withdrawals in each round will be provided.

### **A. Bid Submission and Withdrawal Procedures**

#### **1. Bid Submission**

Each bidder may submit bids once in each round, for as many licenses as it is eligible, according to the limit of its deposited upfront payment. Bidders will be able to place their bids electronically or by telephone. Each bidder will be required to log-in to the FCC auction computer system, using a log-in code and confidential password unique to that bidder, and in addition must provide its bidder identification number and FCC account number in order to place or withdraw a bid. To place a bid telephonically, bidders must call the FCC Bidding Line during the bid submission period. This telephone number will be provided to all qualified bidders in their registration materials. The Bid operator will request the log-in code, system password, FCC account number, bidder identification number, authorized bidder name and fax number. Detailed instructions regarding remote bidding access are contained in Tab III.A of this Bidder's Information Package.

#### **2. Bid Withdrawals**

A high bidder who wishes to withdraw one or more of its high bids during the bid withdrawal period may do so electronically or telephonically subject to the bid withdrawal penalty specified in the Commission's Rules, 47 C.F.R. § 24.704(a)(1). If a high bid is withdrawn, the license will be offered (without a minimum bid increment - see explanation below) in the next round at the second highest bid price, which may be less than or equal to (in the case of tie bids) the amount of the withdrawn bid. The FCC will be identified as the high bidder on the license until a new valid bid is submitted on that license. In addition, to prevent a bidder from strategically delaying the close of the auction, the FCC retains the discretion to limit the number of times that a bidder may re-bid on a license from which it has withdrawn a high bid.

## B. Minimum Bid Increments and Tie Bids

There will be no minimum opening bid and no minimum bid increment for a license until the license has received an initial bid. Once a bid has been received on a license the minimum bid increment for that license will be set initially at the greater of five (5) percent of the previous high bid or \$0.02 per MHz-pop. The Commission retains the discretion to vary the minimum bid increments in each round of the auction for individual licenses or groups of licenses by announcement prior to each round.

Each bid will be date and time stamped when it is entered into the computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which bids are received by the Commission, starting with the earliest bid.

## C. Number of Licenses that May be Acquired & Other Licensing Restrictions

No bidder may hold more than 98 Entrepreneurs' block licenses (Frequency blocks C and F). 47 C.F.R. § 24.710. Additionally, broadband PCS applicants will only be permitted to aggregate broadband PCS licenses up to a total of 40 MHz in any geographic area. Bidders should also be aware that there are other restrictions pertaining to PCS cellular cross-ownership and a Commercial Mobile Radio Service spectrum cap. See 47 C.F.R. §§ 24.204, 24.229, 20.6

## II. Activity Rules

In order to ensure that the auction closes within a reasonable period of time, the Commission will impose an activity rule to discourage bidders from waiting until the end of the auction before participating. The activity rule provides for three stages with increasing levels of minimum activity required in each stage if a bidder is to maintain its current eligibility.

### A. Activity Requirements

A bidder will be considered "active" on a license in the current round if it is either the high bidder at the end of the bid withdrawal period in the previous round or submits a bid in the current round which meets or exceeds the minimum valid bid. A bidder's activity level in a round is the sum of the MHz-pops associated with licenses on which the bidder is active. The minimum required activity levels for each stage of the auction are as follows:

1. Stage One: In each round of the first stage of the auction, a bidder who wishes to maintain its current eligibility is required to be active on licenses encompassing at least 60% of the MHz-pops for which it is currently eligible. Failure to maintain the requisite activity level will result in a reduction in the amount of MHz-pops upon which a bidder will be eligible to bid in the next round of bidding (unless an activity rule waiver is used). During the first stage, if activity is below the required minimum level, eligibility in the next round will be

calculated by multiplying the current round activity by five-thirds (5/3). Eligibility for each applicant in the first round is determined by the amount of the upfront payment received and the licenses identified in the FCC Form 175 application.

2. Stage Two: In each round of the second stage, a bidder who wishes to maintain its current eligibility is required to be active on 80% of the MHz-pops for which it is eligible in the current round. During the second stage, if activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

3. Stage Three: In each round of the third stage, a bidder who wishes to maintain its current eligibility is required to be active on licenses encompassing 95 percent of the MHz-pops for which it is eligible in the current round. In the final stage, if activity in the current round is below 95 percent of current eligibility, eligibility in the next round will be calculated by multiplying the current round activity by twenty-nineteenths (20/19).

**As stated above, activity requirements increase in each auction stage, therefore, it is necessary for bidders to check current activity during the bid submission period in the first round following a stage transition. Bidders who do not wish to submit any new bids in that round can confirm their current activity level (measured in terms of their standing high bids) telephonically or through the FCC WAN by entering the bid submission module and comparing the current activity to the activity required.**

#### B. Activity Rule Waivers

**Bidders will be provided five activity rule waivers that may be used in any round during the course of the auction. If a bidder's activity level is below the required activity level a waiver will automatically be applied, if a bidder still has waivers remaining and does not submit an automatic waiver override. That is, if a bidder fails to submit a bid in a round or bids below the required activity level, and its activity level from any standing high bids (high bids at the end of the bid withdrawal period in the previous round) falls below its required activity level, a waiver will be automatically applied. A waiver will preserve current eligibility in the next round. An activity rule waiver applies to an entire round of bidding and not to a particular license. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.**

Bidders will be afforded an opportunity to override the automatic waiver mechanism if they wish to intentionally reduce their eligibility and do not want to use a waiver to retain their eligibility at its current level. If a bidder overrides the automatic waiver mechanism, its eligibility will be permanently reduced and it will not be permitted to regain its bidding eligibility from a previous round.

Bidders will have the option of proactively entering an activity rule waiver during the bid submission period. If a bidder submits a proactive waiver in a round in which no other bidding

activity occurs, **the auction will remain open.** Therefore in the later rounds of the auction, if a bidder does not intend to bid but wants to ensure that the auction does not close, it should enter a proactive waiver in place of a bid. The submission of a proactive waiver will prevent the auction from closing.

### C. Stopping Rules

Bidding will remain open on all licenses until bidding stops on every license. The auction will close after one round passes in which no new valid bids or proactive waivers are submitted. The Commission retains the discretion, however, to keep an auction open even if no new valid bids and no proactive waivers are submitted. In the event that the Commission exercises this discretion, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, if a bidder has any activity rule waivers left, an automatic waiver will be applied if its activity from standing high bids does not meet its required activity level. Bidders whose activity from the standing high bid does not meet its required activity level and that have no activity rule waivers remaining will have their maximum eligibility reduced according to the activity rules as described above.

The Commission may also declare at any time after 40 rounds that the auction will end after a specified number of additional rounds. If the Commission invokes this stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding three rounds. The Commission also retains the discretion to close bidding on a particular license or licenses. In the unlikely event that we use such a license-by-license stopping rule, we would anticipate doing so only after 40 rounds; applying it first to the largest BTAs, and only if three or more rounds have passed without any bids on these licenses.

The Commission does not intend to exercise these options except in extreme circumstances such as where the auction is proceeding very slowly, there is minimal overall bidding activity and it appears unlikely that the auction will close within a reasonable period of time. Before exercising these options, however, the Commission would first attempt to increase the pace of the auction by announcing that the auction will move into the next stage, where bidders would be required to maintain a higher level of bidding activity. Under these circumstances, the Commission may also first increase the number of bidding rounds per day and increase the amount of the minimum bid increments for those limited number of licenses where there is still a high level of bidding activity.

## III. Miscellaneous Auction Information

### A. Delay, Suspension or Cancellation of the Auction

The Commission may, by Public Notice or by announcement during the auction, delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative necessity, or for any other

reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Commission may, in its sole discretion, resume the auction starting from the beginning of the current or some previous round or cancel the auction in its entirety. Network failure at the auction may cause the Commission to delay or suspend the auction.

#### B. Default and Disqualification Penalties

Any high bidder who defaults by failing to remit the required down payment within the prescribed time or is disqualified after bidding is declared closed will be subject to the penalties described in § 24.704(a)(2) of the Commission's Rules, 47 C.F.R. § 24.704(a)(2). In addition, if a default or disqualification involves gross misconduct, misrepresentation or bad faith by an applicant, the Commission 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. See Second Report and Order in PP Docket 93-253, FCC 94-61, 9 FCC Rcd 2348 (1994) at ¶ 198.

#### C. Releasing Bidder Identities

Bidders' identities, FCC Account Numbers, and the licenses for which they have applied will be disclosed prior to the auction. Thus, bidders will know in advance of the auction the identities of the bidders against whom they are bidding. During the course of the auction bidder identities and all bids submitted and withdrawn will be disclosed during the round results period.

## **Part III: POST-AUCTION PROCEDURES FOR HIGH BIDDERS**

### **I. Down Payment**

The winning bidder for each license must submit sufficient additional funds (a "down payment") to bring the amount of money on deposit with the government to 5 percent of their winning bid (less any applicable bidding credits) within five (5) business days after bidding is declared closed and the high bidders are announced. In the event that a bidder has withdrawn a bid or bids and is subject to a bid withdrawal penalty or penalties, the bidder's upfront payment will be applied to satisfy the penalty before being applied toward its down payment on licenses it has won. If the amount of the penalty cannot yet be determined, the bidder will be required to make a deposit of 5 percent of the amount bid on such licenses.

The remainder of the down payment, an additional 5 percent of the applicant's net winning bid, is due within 5 business days after the license is granted. A sample FCC Remittance Advice Form (FCC Form 159) and further instructions for making auction down payments are contained under Tab IV. C. of this Bidder Package. The instructions for submitting cashier's checks and/or wire transfers are identical to those presented in the Pre-Auction Procedures Upfront Payments Section contained in this Bidder Package.

#### **A. Submission of Long-Form Application (FCC Form 600) and Award of Licenses**

Unless otherwise announced by Public Notice, winning bidders must timely submit a properly completed FCC Form 600 application (either electronically or manually) for a block C broadband PCS license within ten (10) business days after a Public Notice is issued announcing the high bidders and/or instructions on filing the FCC Form 600. Winning bidders must complete a FCC Form 600, Long Form Application and Schedule "A" for **each** individual BTA license won through the auction. Detailed instructions and a copy of FCC Form 600 are contained in Tab IV. D. of this Bidder's Information Package. The FCC Form 600 is subject to change. Bidders are responsible for submitting the correct and most up-to-date version of this form. Manual submission of the FCC Form 600 must be sent to:

**Office of the Secretary  
Attn: Broadband PCS Processing Section  
Federal Communications Commission  
1919 M St., N.W., Room 222  
Washington, D.C. 20554**

Once a high bidder has submitted its down payment and filed the FCC Form 600 application, a Public Notice will be issued announcing the acceptance of applications for filing.

Petitions to Deny against any of the applications accepted for filing must be filed no later than 30 days from the date of that Public Notice.

After the Commission reviews an applicant's FCC Form 600 and resolves any petitions to deny, the Commission will determine whether there are any reasons why the license should not be granted; if there are none, it will grant the license. The remainder of the winning bidder's down payment, an additional five (5) percent of the applicant's net winning bid, is due within five (5) business days after the license is granted. All license grants will be conditioned on timely payments for the license in accordance with the installment payment plan applicable to that bidder set forth in 47 C.F.R. § 24.711 of our Rules.

## B. Summary of Special Provisions for Designated Entities

As set forth more specifically in Section I. of the Pre-Auction Procedures applicants qualifying as designated entities, small businesses, woman and/or minority owned businesses and rural telephone companies, can benefit from certain special provisions concerning bidding credits and installment payments. Bidders are directed to review thoroughly the Commission's Rules. Some of the provisions of those rules are set forth in summary form below. Applicants are cautioned to review these rules carefully. The information here is only a summary for informational purposes. Any unintended conflict with the rules will not justify an applicant's failure to comply with the rules.

### 1. Bidding Credits:

a. A winning bidder that qualifies as a small business, or consortium of small businesses, may use a bidding credit of ten (10) percent to lower the cost of its winning bid;

b. A winning bidder that qualifies as a business owned by members of minority groups and/or women may use a bidding credit of fifteen (15) percent to lower the cost of its winning bid; and

c. A winning bidder that qualifies as a small business owned by members of minority groups and/or women or a consortium of small businesses owned by members of minority groups and/or women may use a bidding credit of twenty-five (25) percent to lower the cost of its winning bid.

### 2. Installment Payments:

Eligible licensees of frequency block C may pay the remaining ninety (90) percent of the net auction price (after down payments are received) in installment payments as outlined below:

a. Eligible licensees with gross revenues exceeding \$75 million in each of the two preceding years pay interest based on the rate of interest for ten-year U.S. Treasury obligations applicable on the date of license, plus 3.5 percent. Payments shall include both principal and interest to be amortized over the term of the license.

b. Eligible licensees with gross revenues **not** exceeding \$75 million in each of the two preceding years pay interest based on the rate for ten-year U.S. Treasury obligations applicable on the date of license, plus 2.5 percent. Payments shall include interest only for the first year with payment of principal and interest amortized over the remaining nine years of the license term.

c. Eligible licensees that qualify as a small business, or as a consortium of small businesses, pay interest based on the rate of interest for ten-year U.S. Treasury obligations applicable on the date of license, plus 2.5 percent. Payments shall include interest only for the first two years with payment of principal and interest amortized over the remaining eight years of the license term.

d. Eligible licensees that qualify as a business owned by members of minority groups and/or women, pay interest based on the rate of interest for ten-year U.S. Treasury obligations applicable on the date of license. Payments shall include interest only for the first three years with payment of principal and interest amortized over the remaining seven years of the license term.

e. Eligible licensees that qualify as a small business owned by members of minority groups and/or women or as a consortium of small businesses owned by members of minority groups and/or women, pay interest based on the rate for ten-year U.S. Treasury obligations applicable on the date of the license. Payments shall include interest only for the first six years with payment of principal and interest amortized over the remaining four years of the license term.

**A sample FCC Form 159 and further instructions for making auction installment payments are contained under Tab Section IV of this Bidder Package.**

C. Refund of Upfront Money

All applicants who submitted upfront payments yet did not win any Block C licenses may be entitled to a refund of their upfront payments after the conclusion of the auction. Any refund will be conditioned upon there being excess funds on deposit after any applicable penalties have been paid. After the close of the auction a refund package will be mailed, via Federal Express, to these applicants at the address indicated for the payor in blocks 4 through 7 of the FCC Remittance Advice Form (FCC Form 159). The package will include a cover letter which outlines the procedures for processing a refund, and a FCC Form SF-3881 (ACH Vendor/Miscellaneous Payment Enrollment Form).

Applicants are expected to complete their section of the SF-3881 and forward the SF-3881 to their financial institution for final completion. Once the SF-3881 has been properly filled out the Form must be faxed to the Billings and Collections Branch, Attn: William Koch. The fax number is (202) 418-2843. The original SF-3881 must also be mailed to Mr. Koch at the following address:

Federal Communications Commission  
Attn: William Koch  
1919 M. Street, N.W.  
Washington, D.C. 20554

Questions regarding the refund process or completion of the FCC Form SF-3881 should contact either Regina Dorsey or William Koch at (202) 418-1995.

Bidders who drop out of the auction may also be eligible for a refund of upfront payments prior to the close of the auction. Qualified bidders who wish to obtain a refund, prior to the close of the auction, must forward a written request for refund to:

Federal Communications Commission  
Auctions Group, Room 5202  
Attn: Muriel Watkins  
2025 M. Street, N.W.  
Washington, D.C. 20554

A copy of your refund request should also be faxed to Regina Dorsey at (202) 418-2843. Once your request has been approved by the FCC's Auction Group, a refund package will be forwarded to the address on the FCC Remittance Advice Form (FCC Form 159).

## **II. Construction Requirements**

Licensees of 30 MHz blocks must serve with a signal level sufficient to provide adequate service to at least one-third of the population in their licensed area within five years of being licensed and two-thirds of the population in their licensed area within 10 years of being licensed. Licensees may choose to define population using the 1990 census or the 2000 census. **Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the license and the licensee will be ineligible to regain it.**

Licensees must file maps and other supporting documents showing compliance with the respective construction requirements within the appropriate five-year and ten-year benchmarks of the date of their initial licensees. See 47 C.F.R. § 24.203.

## **III. Bidder Alert**

**The Terms contained in the Commission's Report and Orders, Public Notices and in the Bidder Package are not negotiable. Prospective bidders should review these auction documents thoroughly prior to the auction to make certain that they understand all of the provisions and are willing to be bound by all of the Terms before making any bid.**

**All applicants must certify under penalty of perjury on their FCC Form 175 applications that they are legally, technically financially and otherwise qualified to hold a license. Prospective bidders are reminded that submission of a false certification to the**

**Commission is a serious matter that may result in severe penalties including monetary forfeitures, license revocations, being barred from participating in future auctions, and/or criminal prosecution.**

**- FCC -**

