



PUBLIC NOTICE

Federal Communications Commission
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DA 00-1100
May 18, 2000

AUCTION OF LICENSES FOR 800 MHz SPECIALIZED MOBILE RADIO (SMR) SERVICE IN THE GENERAL CATEGORY BAND (851-854 MHz) AND UPPER BAND (861-865 MHz)

Auction Notice and Filing Requirements for 1,053 Licenses in the 800 MHz SMR Service For The General Category Auction

Auction Rescheduled from August 23, 2000 to August 16, 2000

Minimum Opening Bids and Other Procedural Issues

Report No. AUC-00-34-B (Auction No. 34)

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I. GENERAL INFORMATION

A. Introduction

By this public notice, the Wireless Telecommunications Bureau (“Bureau”) announces the procedures and minimum opening bids for the upcoming auction of licenses for the 800 MHz Specialized Mobile Radio Service for General Category and Upper Band Frequencies (“Auction No. 34”). On March 23, 2000, in accordance with the Balanced Budget Act,¹ the Bureau released a public notice seeking comment on the establishment of reserve prices or minimum opening bids and the procedures to be used in Auction No. 34. In addition, on April 18, 2000, the Bureau released a public notice announcing the inclusion of three additional licenses from the 800 MHz upper band, to be included in Auction No. 34.² The Bureau received five comments and three reply comments in response to the *Auction No. 34 Comment Public Notice*.³

The *Auction No. 34 Comment Public Notice* announced that Auction No. 34 would begin on August 23, 2000.⁴ In this public notice, the Bureau announces that the beginning date of Auction No. 34 will be moved forward one week to August 16, 2000.

1. Background of Proceeding

On December 15, 1995, the Federal Communications Commission (“FCC” or *First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making* that established geographic area licensing, auction and service rules for the “upper 200” 800 MHz SMR channels and set forth proposals for new licensing rules and auction procedures for the “lower 230” 800 MHz SMR channels.⁵ On July 10, 1997, the Commission released a *Second Report and Order* that resolved pending issues and established

¹ Section 3002(a), Balanced Budget Act, Pub. L. 105-33, 111 Stat. 251 (1997) (“Balanced Budget Act”); 47 U.S.C. §309(j)(4)(F). The Commission’s authority to establish a reserve price or minimum opening bid is set forth in

² See “Auction of Licenses for 800 MHz Specialized Mobile Radio (SMR) Service General Category Frequencies in the 851-854 MHz Band Scheduled for August 23, 2000; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures,” *Public Notice*, DA 00-667 (rel. March 23, 2000), 65 Fed. Reg. 17268 (March 31, 2000); “Auction of Additional Licenses for 800 MHz Specialized Mobile Radio (SMR) Service to be included in Auction No. 34 Scheduled for August 23, 2000; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues,” *Public Notice*, DA 00-877 (rel. April 18, 2000) (collectively referred to as “*Auction No. 34 Comment Public Notice*”).

³ Comments were filed by Small Business in Telecommunications (“SBT”), Personal Communications Industry, Southern LINC (“Southern”), Pacific Wireless Technologies, Inc. (“Pacific Wireless”), Nextel Communications, Inc. (“Nextel”). Reply comments were filed by Small Business in Telecommunications (“SBT”), Southern and Nextel.

⁴ *Auction No. 34 Comment Public Notice* at 1.

⁵ Amendment of Part 90 of the Commission’s Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, *First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making, FCC 95-501*, 11 FCC Rcd. 1463 (1995) (collectively, “*800 MHz First Report and Order*”).

technical and operational rules for the “lower 230” 800 MHz SMR channels.⁶ On October 8, 1999, the Commission released a *Memorandum Opinion and Order on Reconsideration* that completed the implementation of a new licensing framework for the 800 MHz SMR service.⁷

2. Licenses to Be Auctioned

The licenses available in this auction consist of six contiguous 25 channel blocks (1.25 MHz) in each of 172 Economic Areas (EAs) and 3 EA-like areas, covering the United States, possessions or territories in the Northern Mariana Islands and Guam, American Samoa, the United States Virgin Islands and Puerto Rico. These licenses are listed in this public notice under Attachment A.

Additionally, the Commission will offer three EA licenses in the 800 MHz Upper Band (861-865 MHz) one 20 channel license (Spectrum Block A) will be offered in Honolulu, HI; one 60 channel license (Spectrum Block B) will be offered in Guam and Northern Mariana Islands; one 120 channel license (Spectrum Block C) will be offered in Guam and Northern Mariana Islands. The following table contains the Block/Frequency Band Limits Cross-Reference List for the 800 SMR General Category Channels:

800 MHz SMR General Category Channels

851-854 MHz

License Suffix	Channel No.	Frequencies (Base & Mobile)
D	1 through 25	851.0125 through 851.6125 806.0125 through 806.6125
DD	26 through 50	851.6375 through 852.2375 806.6375 through 807.2375
E	51 through 75	852.2625 through 852.8625 807.2625 through 807.8625
EE	76 through 100	852.8875 through 853.4875 807.8875 through 808.4875
F	101 through 125	853.5125 through 854.1125 808.5125 through 809.1125
FF	126 through 150	854.1375 through 854.7375 809.1375 through 809.7375

861-866 MHz (Upper Bands)

Spectrum Block	Channel Numbers	Frequencies (Base & Mobile)
A	401 – 420	861.0 – 861.5 MHz 816.0 – 816.5 MHz

⁶ Amendment of Part 90 of the Commission’s Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, *Second Report and Order*, FCC 97-223, 12 FCC Rcd. 19079 (1997) (“800 MHz *Second Report and Order*”).

⁷ Amendment of Part 90 of the Commission’s Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, *Memorandum Opinion and Order on Reconsideration*, FCC 99-270, 14 FCC Rcd. 17556 (1999) (“800 MHz *Order on Reconsideration*”).

B	421 – 480	861.5 – 863.0 MHz 816.5 – 818.0 MHz
C	481 - 600	863.0 – 866.0 MHz 818.0 – 821.0 MHz

B. Scheduling

1. Bifurcation

Several commenters state that there should be no overlap between Auctions No. 34 and 36.⁸ These commenters note the expense, burden and administrative difficulty of participating in overlapping auctions, particularly for small businesses.⁹ Although we agree that it may be burdensome for some bidders to participate in coinciding auctions, there was no consensus among commenters on how to resolve this potential problem. Southern recommends that we eliminate the bifurcation of Auctions No. 34 and 36, and schedule a single auction to begin on August 23, 2000.¹⁰ Nextel supports Southern's position to eliminate the bifurcation, provided the single auction commences no later than August 23, 2000.¹¹ SBT also supports Southern's position, but proposes that the single auction occur after the conclusion of the mandatory relocation period, which is scheduled to begin December 4, 2000.¹² For reasons of administrative convenience, we choose to maintain the bifurcated schedule for Auctions No. 34 and 36.

In addition, for reasons of administrative convenience and effective auction management, we will change the date for Auction No. 34, moving the date forward one week to August 16, 2000. This change will not only provide for more efficient management of the auction, it will provide additional time between Auctions No. 34 and 36 to permit all interested parties, including incumbents and small businesses, sufficient time in which to evaluate the outcome of Auction No. 34 and prepare for Auction No. 36.¹³

2. Pacific Wireless' Petition for Reconsideration

Pacific Wireless seeks reconsideration of the Bureau's scheduling of Auctions No. 34 and 36 prior to the conclusion of the mandatory negotiation period for the relocation of incumbent licensees from the upper 200 channels.¹⁴ The mandatory negotiation phase of the relocation process is scheduled to conclude on December 4, 2000. SBT and PCIA also support postponement of the auctions, however, they advocate delay until the completion of the involuntary relocation phase that

⁸ See Comments by Nextel and Southern; Reply Comments by Nextel, Southern and SBT.

⁹ *Id.*

¹⁰ Southern Comments at 3-4.

¹¹ Nextel Reply Comments at 7.

¹² SBT Reply Comments at 3.

¹³ SBT has filed a motion requesting that the Commission "stay the effectiveness" of the *Auction No. 34 Comment Public Notice*, the effect of which would be to delay the auction. The Bureau will respond to this motion in a separate Order. See Emergency Motion for Stay, filed by SBT (April 24, 2000).

¹⁴ Pacific Wireless Comments at 2.

800 MHz Order on Reconsideration and does not constitute a decision by the Commission, but is merely a summary of a Commission statement in the *800 MHz Second Report and Order*.¹⁸ The *800 MHz Second Report and Order* clearly states that the licensing of the lower channels would not occur until “incumbents have had the *opportunity* to relocate to the lower channels.”¹⁹ As Nextel and Southern correctly note, prior to Auction No. 34, incumbents on the upper 200 channels will have had approximately 18 months to relocate their systems.²⁰ Although we recognize that upper channel incumbents are currently in the second phase of the three-phase process the Commission established, we believe that 18 months provides a reasonable opportunity for incumbents to relocate.

Moreover, the language cited from the *800 MHz Second Report and Order* does not constitute a decision by the Commission regarding the timing of the auction of the lower 230 channels. The Commission simply observed, as a practical matter, that affording incumbents on the lower channels greater flexibility in modifying their systems was appropriate because geographic licensing would not begin on those channels until upper channel incumbents had an opportunity to relocate to the lower channels.²¹ Thus, there is no merit to Pacific Wireless’s contention that it relied, to its detriment, on a Commission decision or its allegation that the Bureau is contravening such a decision. We agree with those commenters who stated that going forward with Auctions No. 34 and 36 will facilitate the relocation process by providing EA licensees with additional relocation spectrum and incumbents with a more certain picture of their relocation options.²² Accordingly, we will not delay the start of Auction No. 34 until the close of the mandatory negotiation period for relocation of incumbent licensees on the upper 200 channels.

C. Rules and Disclaimers

1. Relevant Authority

Prospective bidders must familiarize themselves thoroughly with the Commission's rules

¹⁵ PCIA Comments at 2-4 and SBT Reply Comments at 2.

¹⁶ Pacific Wireless Comments at 2-5.

¹⁷ Pacific Wireless Comments at 2-5.

¹⁸ See *800 MHz Order on Reconsideration* at ¶ 29; *800 MHz Second Report and Order* at ¶¶66-67.

¹⁹ See *800 MHz Second Report and Order* at ¶ 66 (emphasis added).

²⁰ Nextel Reply Comments at 3 and Southern Reply Comments at 2.

²¹ See *800 MHz Second Report and Order* at ¶ 66.

²² Nextel Reply Comments at 6-7. See generally Southern Reply Comments at 3.

relating to the 800 MHz band, contained in Title 47, Part 90 of the Code of Federal Regulations, and those relating to application and auction procedures, contained in Title 47, Part 1 of the Code of Federal Regulations.

Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, "Terms") contained in this public notice; the *Auction No. 34 Comment Public Notice*, *800 MHz First Report and Order*, *800 MHz Second Report and Order*, and the *800 MHz Order on Reconsideration*.²³

The terms contained in the Commission's rules, relevant orders and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Internet node via anonymous ftp @ftp.fcc.gov or the FCC Auctions World Wide Web site at <http://www.fcc.gov/wtb/auctions>. Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 314-3070. When ordering documents from ITS, please provide the appropriate FCC number (for example, FCC 99-270 for the *800 MHz Order on Reconsideration*).

2. Prohibition of Collusion

To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements.²⁴ This prohibition begins with the filing of short-form applications and ends on the down payment due date. Bidders competing for licenses in the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the authorized bidders is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm), a violation could similarly occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.²⁵

However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.²⁶ In Auction No. 34, for example, the

²³ See Section A.I.1, above.

²⁴ See 800 MHz Second Report and Order at ¶ 118. See also 47 C.F.R. § 1.2105(c).

²⁵ See *In re Application of Nevada Wireless for a License to Provide 800 MHz Specialized Mobile Radio Service in the Farmington, NM-CO Economic Area (EA-155) Frequency Band A, Memorandum Opinion and Order*, 13 FCC Rcd. 11973, 11977 ¶ 11 (1998) ("*Nevada Wireless*").

²⁶ See *Nevada Wireless*, 13 FCC Rcd. at 11978.

rule would apply to any applicants bidding for the same EA. Therefore, applicants that apply to bid for "all markets" would be precluded from communicating with all other applicants after filing the FCC Form 175 short-form application. However, applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175.²⁷ If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application under Section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for the same geographic license areas.²⁸ By signing their FCC Form 175 short form applications, applicants are certifying their compliance with Section 1.2105(c). In addition, Section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.²⁹ Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules immediately upon learning of such violation.

A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Appendix I.

3. Due Diligence

Potential bidders should be aware that certain applications (including those for modification), waiver requests, petitions to deny, petitions for reconsideration, and applications for review are pending before the Commission that relate to particular applicants or incumbent licensees. In addition, certain decisions reached in the SMR proceeding are subject to judicial appeal and may be the subject of additional reconsideration or appeal.³⁰ We note that resolution of these matters could have an impact on the availability of spectrum for EA licensees in the 800 MHz SMR general category and upper bands. While the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction. Potential bidders are solely responsible for investigating and evaluating the degree to which such pending matters may affect spectrum availability in areas where they seek EA licenses. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 34 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 34 are strongly encouraged to continue such research during the auction.

To aid potential bidders, the Commission will release a subsequent public notice in the near future listing pending matters that relate to licenses or applications that affect the 800 MHz SMR general category and upper bands. The Commission will make available for public inspection the

²⁷ See 47 C.F.R. § 1.2105(c).

²⁸ See "Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, DA 95-2244, 11 FCC Rcd. 9645 (1995) (rel. October 26, 1995).

²⁹ See 47 C.F.R. § 1.65.

³⁰ See *e.g.* *Small Business in Telecommunications, Inc. v Federal Communications Commission*, No. 99-1543 (D.C. Cir. Filed Dec. 29, 1999).

pleadings and related filings in those matters pending before the Commission.

In addition, potential bidders may research the Bureau's licensing databases on the World Wide Web in order to determine which frequencies are already licensed to incumbent licensees. Because some of our incumbent 800 MHz licensing records have not yet been converted to the Bureau's new Universal Licensing System (ULS), potential bidders may have to select other databases to perform research for the frequency(s) of interest. The research options below will allow potential bidders to download licensing data, as well as to perform queries online.

800 MHz band Incumbent Licenses: Licensing records for the 800 MHz band are contained in the Bureau's Land Mobile database and may be researched on the internet at <http://www.fcc.gov/wtb> by selecting the "Databases" link at the top of the page. Potential bidders may download a copy of the licensing database by selecting "Download the Wireless Databases" and choosing the appropriate files under "Land Mobile Database Files – 47 C.F.R. Part 90." Alternatively, potential bidders may query the Bureau's licensing records online by selecting "Search

800 MHz SMR Upper 200 channels (Auction No. 16) Licenses: Licensing records for the 800 MHz SMR Upper 200 channels are contained in the Bureau's ULS and may be researched on the Internet at <http://www.fcc.gov/wtb/uls> by selecting the "License Search" button in the left frame. Potential bidders may query the database online and download a copy of their search results if desired. The Bureau recommends that potential bidders select the "Frequency" option under License Search, specify the desired frequency, and use the "GeoSearch" button at the bottom of the screen to limit their searches to a particular geographic area. Detailed instructions on using License Search (including frequency searches and the GeoSearch capability) and downloading query results are available online by selecting the "?" button at the bottom right-hand corner of the License Search screen.

The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in or near the geographic area for which they plan to bid.

Potential bidders should direct questions regarding the search capabilities described above to the FCC Technical Support Hotline at (202) 414-1250 (voice) or (202) 414-1255 (TTY), or via email at ulscomm@fcc.gov. The hotline is available Monday through Friday, from 8:00 AM to 6:00 PM Eastern Time. In order to provide better service to the public, *all calls to the hotline are recorded.*

4. Incumbent Licensees

Potential bidders are reminded that there are incumbent licensees operating on frequencies that are subject to the upcoming auction. Incumbent licensees retain the exclusive right to use those channels within their self-defined service areas. The holder of an EA authorization thus will be required to implement its facilities to protect incumbents from harmful interference. These limitations may restrict the ability of such geographic area licenses to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. Specifically, an EA authorization holder will be required to coordinate with the incumbent licensees

by using the interference protection criteria in Section 90.693 of the Commission's rules. However, operational agreements are encouraged between the parties. Should an incumbent lose its license, the incumbent's service area(s) will convey to the relevant authorized holder of the EA. The relevant authorized holder of the EA will then be entitled to operate within the forfeited service area(s) located within its EA, without being subject to further competitive bidding.

5. Bidder Alerts

All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.³¹ 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, exclusion from participation in future auctions, and/or criminal prosecution.

The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding, as they would with any new business venture.

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 34 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of the minimum investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service ("IRS"), Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud

³¹ See 47 C.F.R. § 1.2105.

Information Center at (800) 876-7060. Consumers who have concerns about specific 800 MHz proposals may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

6. National Environmental Policy Act (NEPA) Requirements

Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA).³² The construction of an 800 MHz facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility.³³ The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

D. Auction Specifics

1. Auction Date

The auction will begin on Wednesday, August 16, 2000. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

2. Auction Title

Auction No. 34 – 800 MHz SMR General Category Channels

3. Bidding Methodology

The bidding methodology for Auction No. 34 will be simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

4. Pre-Auction Dates and Deadlines

Auction Seminar	July 7, 2000
Short-Form Application (FCC FORM 175)	July 17, 2000; 6:00 p.m. ET
Upfront Payments (via wire transfer)	July 31, 2000; 6:00 p.m. ET
Orders for Remote Bidding Software	August 1, 2000; 5:30 p.m. ET
Mock Auction	August 14, 2000
Auction Begins	August 16, 2000

³² See 47 C.F.R. Ch. 1, Subpart I.

³³ See 47 C.F.R. §§ 1.1305-1.1319.

5. Requirements For Participation

Those wishing to participate in the auction must:

- Submit a short form application (FCC Form 175) electronically by 6:00 p.m. ET, July 17, 2000.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, July 31, 2000.
- Comply with all provisions outlined in this public notice.

6. General Contact Information

GENERAL AUCTION INFORMATION

General Auction Questions
Seminar Registration
Orders for Remote Bidding Software

FCC Auctions Hotline
(888) 225-5322, Press Option #2
or direct (717) 338-2888
Hours of service: 8 a.m. – 5:30 p.m. ET

AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations

Auctions and Industry Analysis Division
Legal Branch (202) 418-0660

LICENSING INFORMATION

Rules, Policies, Regulations
Licensing Issues
Due Diligence
Incumbency Issues

Commercial Wireless Division
(202) 418-0620

TECHNICAL SUPPORT

Electronic Filing Assistance
Software Downloading

FCC Auctions Technical Support Hotline
(202) 414-1250 (Voice),
(202) 414-1255 (TTY)

Hours of service: 8 a.m. – 6:00 p.m. ET

PAYMENT INFORMATION

Wire Transfers
Refunds

FCC Auctions Accounting Branch
(202) 418-1995
(202) 418-2843 (Fax)

TELEPHONIC BIDDING

Will be furnished only to qualified bidders

FCC COPY CONTRACTOR

Additional Copies of
Commission Documents

International Transcription Services, Inc.
445 12th Street, SW Room CY-B400
Washington, DC 20554
(202) 314-3070

PRESS INFORMATION

Meribeth McCarrick (202) 418-0654

FCC FORMS

(800) 418-3676 (outside Washington, DC)
(202) 418-3676 (in the Washington Area)
<http://www.fcc.gov/formpage>

FCC INTERNET SITES

<http://www.fcc.gov/wtb/auctions>
<http://www.fcc.gov>

II. SHORT-FORM (FCC FORM 175) APPLICATION REQUIREMENTS

Guidelines for completion of the short-form (FCC Form 175) are set forth on Attachment D to this public notice. The short-form application seeks the applicant's name and address, legal classification, status, bidding credit eligibility, identification of the authorization(s) sought, the authorized bidders and contact persons.

A. Ownership Disclosure Requirements (Form 175 Exhibit A)

All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by Sections 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing Form 175, applicants will be required to file an "Exhibit A" providing a full and complete statement of the ownership of the bidding entity.³⁴ The ownership disclosure standards for the short-form are set forth in Section 1.2112 of the Commission's rules.

B. Consortia And Joint Bidding Arrangements (Form 175 Exhibit B)

Applicants will be required to identify on their short-form applications any 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 licenses being auctioned, including any agreements relating to post-auction market structure. *See* 47 C.F.R. §§ 1.2105(a)(2)(viii) and 1.2105(c)(1). Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular construction permits on which they will or will not bid. *See* 47 C.F.R. § 1.2105(a)(2)(ix). As discussed above, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue discussions with applicants for the same geographic license area(s) after the deadline.³⁵ Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an "Exhibit B" to the FCC Form 175.

A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest, form a consortium with, or enter into a joint bidding arrangement with other applicants for construction permits in the same geographic license area provided that (i) the attributable interest holder certify that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants.³⁶ While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants,

³⁴ Section 1.2105, in turn, requires the disclosure on the short-form of applicant ownership information as set forth in Section 1.2112.

³⁵ *See* Section 1.B.2, above.

³⁶ *See* 47 C.F.R. § 1.2105(c)(4)(i)&(ii).

bidders are reminded that certain discussions or exchanges could broach on impermissible subject matters because they may convey pricing information and bidding strategies.

C. Small Business Bidding Credits (Form 175 Exhibit C)

In the *800 MHz Second Report and Order*, the Commission adopted small business provisions to promote and facilitate the participation of small businesses in competitive bidding for licenses in the 800 MHz bands.³⁷

1. Eligibility

Bidding credits are available to small businesses and very small businesses as defined in 47 C.F.R Section 90.912(b). For purposes of determining which entities qualify as very small businesses or small businesses, the Commission will consider the gross revenues of the applicant, its controlling interests, and the affiliates of the applicant and its controlling interests. The Commission does not impose specific equity requirements on controlling interests. Once principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the applicant and their affiliates will be counted in determining small business eligibility. The term "control" includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control*. *De facto* control is determined on a case-by-case basis.³⁸ The following are some common indicia of control:

- the entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- the entity plays an integral role in management decisions.

A consortium of small businesses, or very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which *individually* satisfies the definition of small or very small business in Section 90.912. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, controlling interests, and controlling interests' affiliates. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small or very small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

³⁷ See *800 MHz Second Report and Order* at ¶ 142. See also 47 C.F.R. §§ 90.910 & 90.912.

³⁸ For further guidance on the issue of control, see the Commission's affiliation rule at 47 C.F.R. § 1.2110(b)(4). See also *Ellis Thompson Corp.*, 10 FCC Rcd. 12554, 12555-56 (1994), in which the Commission identified the following factors used to determine control of a business: (1) use of facilities and equipment; (2) control of day-to-day operations; (3) control of policy decisions; (4) personnel responsibilities; (5) control of financial obligations; and (6) receipt of monies and profits; *Intermountain Microwave*, 12 FCC 2d. 559 (1963), and *Application of Baker Creek Communications, LP, For Authority to Construct and Operate Local Multipoint Distribution Services in Multiple Basic Trading Areas, Memorandum Opinion and Order*, 13 FCC Rcd. 18,709 (rel. September 23, 1998).

2. Application Showing

Applicants should note that they will be required to file supporting documentation as Exhibit C to their FCC Form 175 short form applications to establish that they satisfy the eligibility requirements to qualify as a small business or very small business (or consortia of small or very small businesses) for this auction.³⁹ Specifically, for Auction No. 34, applicants applying to bid as small or very small businesses (or consortia of small or very small businesses) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate*, the gross revenues for the preceding three years of each of the following: (1) the applicant; (2) the applicant's affiliates; (3) the applicant's controlling interests; and (4) the affiliates of the applicant's controlling interests. Certification that the average gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, and its controlling interests, a schedule of gross revenues for *each* of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of very small or small businesses, this information must be provided for each consortium member.

3. Bidding Credits

Applicants that qualify under the definitions of small business, and very small business (or consortia of small or very small businesses) as set forth in 47 C.F.R. § 90.912, are eligible for a bidding credit that represents the amount by which a bidder's winning bids are discounted.⁴⁰ The size of an 800 MHz band bidding credit depends on the average gross revenues for the preceding three years of the bidder and its controlling interests and affiliates:

- A bidder with average gross revenues of not more than \$15 million for the preceding three years receives a ⁴¹25 percent discount on its winning bids for 800 MHz band licenses (“small
- A bidder with average gross revenues of not more than \$3 million for the preceding three years receives a ⁴²35 percent discount on its winning bids for 800 MHz band licenses (“very small

Bidding credits are not cumulative: qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both.

Bidders in Auction No. 34 should note that unjust enrichment provisions apply to winning bidders that use bidding credits and subsequently assign or transfer control of their licenses to an entity not qualifying for the same level of bidding credit.⁴³ Finally, bidders should also note that

³⁹ See 47 C.F.R. §§ 90.913 and 1.2105.

⁴⁰ See 47 C.F.R. § 90.910(a).

⁴¹ See 47 C.F.R. § 90.910(a).

⁴² See 47 C.F.R. § 90.910(a).

⁴³ See 47 C.F.R. § 90.910(b).

there are no installment payment plans in Auction No. 34.

D. Other Information (Form 175 Exhibits D and E)

Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(b)(2), may attach an exhibit (Exhibit D) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of "designated entities" in its auctions. Applicants wishing to submit additional information may do so in Exhibit E (Miscellaneous Information) to the FCC Form 175.

E. Minor Modifications to Short-Form Applications (FCC Form 175)

After the short-form filing deadline (July 17, 2000), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections or proposed service areas, change the certifying official or change control of the applicant or change bidding credits). *See* 47 C.F.R. § 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these changes on-line, and submit a letter to Amy Zosloy, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Suite 4-A760 Washington, DC 20554, briefly summarizing the changes. Questions about other changes should be directed to M. Nicole Oden of the Auctions and Industry Analysis Division at (202) 418-0660.

F. Maintaining Current Information in Short-Form Applications (FCC Form 175)

Applicants have an obligation under 47 C.F.R. §1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 C.F.R. § 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. PRE-AUCTION PROCEDURES

A. Auction Seminar

On Friday, July 7, 2000, the FCC will sponsor a free seminar for Auction No. 34 at the Federal Communications Commission, located at 445 12th Street, S.W., Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the 800 MHz band service and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

To register, complete the registration form attached hereto as Attachment B and submit it by Thursday, July 6, 2000. Registrations are accepted on a first-come, first-served basis.

B. Short-Form Application (FCC Form 175) -- Due July 17, 2000

In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175

application. This application must be submitted electronically and received at the Commission by 6:00 p.m. ET on July 17, 2000. Late applications will not be accepted.

There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See Part III.D, below.*

1. Electronic Filing

Applicants must file their FCC Form 175 applications electronically.⁴⁴ Applications may generally be filed at any time beginning at noon on July 7, 2000 until 6:00 p.m. ET on July 17, 2000. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on July 17, 2000.

Applicants must press the "Submit Form 175" button on the "Submit" page of the electronic form to successfully submit their FCC Forms 175. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C. Technical support is available at (202) 414-1250 (voice) or (202) 414-1255 (text telephone (TTY)); the hours of service are 8 a.m. to 6 p.m. ET, Monday through Friday.

2. Completion of the FCC Form 175

Applicants should carefully review 47 C.F.R. § 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of this public notice. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D to this public notice provide information on the required attachments and appropriate formats.

3. Electronic Review of FCC Form 175

The FCC Form 175 electronic review software may be used to review and print applicants' FCC Form 175 information. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any Exhibits to their FCC Form 175 applications. There is no fee for accessing this system. *See Attachment C for details on accessing the review system.*

C. Application Processing and Minor Corrections

After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) those applications accepted for filing (including FCC account numbers and the licenses for which they applied); (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

As described more fully in the Commission's rules, after the July 17, 2000, short form filing

⁴⁴ All short-form applications must be filed electronically. *See* 47 C.F.R. § 1.2105(a).

deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).⁴⁵

D. Upfront Payments -- Due July 31, 2000

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank, by 6:00 p.m. ET on July 31, 2000.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 34 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the July 31, 2000 deadline will result in dismissal of the application and disqualification from participation in the auction.

1. Making Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on July 31, 2000. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

⁴⁵ See 47 C.F.R. § 1.2105. See also *Two Way Radio of Carolina, Inc., Memorandum, Opinion and Order*, FCC 99-189, 14 FCC Rcd. 12035 (rel. July 22, 1999).

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 910-1182
OBI Field: (Skip one space between each information item)
"AUCTIONPAY"
TAXPAYER IDENTIFICATION NO.: (same as FCC Form 159, block 26)
PAYMENT TYPE CODE (enter "A34U")
FCC CODE 1 (same as FCC Form 159, block 23A: "34")
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. # 358415

NOTE: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 209-6045 or (412) 236-5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer - Auction Payment for Auction Event No. 34." **Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.**

2. FCC Form 159

A completed FCC Remittance Advice Form (FCC Form 159) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E to this public notice. An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

3. Amount of Upfront Payment

In the *Part 1 Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, the Commission delegated to the Bureau the authority and discretion to determine an appropriate upfront payment for each license being auctioned.⁴⁶ In the *Auction No. 34 Comment Public Notice*, the Bureau proposed upfront payments for Auction No. 34.⁴⁷ Specifically, the Bureau proposed calculating the upfront payment on a license-by-license basis, using the following formula:

License population *\$0.005 (the result rounded to the nearest hundred for levels below \$10,000.00 and to the nearest thousand for levels above \$10,000.00) with a minimum of no less than \$2,500.00 per license.

In its comments, SBT claimed that proposed calculation for the upfront payments was arbitrary and did not account for incumbency. SBT recommended that the Bureau reduce its upfront

⁴⁶ Amendment of Part 1 of the Commission's rules -- Competitive Bidding Proceeding, WT Docket No. 97-82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd. 5686, 5697-5698, ¶ 16 (1997).

⁴⁷ See *Auction No. 34 Comment Public Notice* at 3.

payment calculation to ensure that no upfront payment would exceed \$2,500.00 per license.⁴⁸ In their reply comments, Nextel asserted that the MOB calculation does account for incumbency and is discounted when compared with the upper bands.⁴⁹ The purpose of upfront payments is to ensure that bidders are sincere participants and setting them at a reasonable level is a means to accomplish this goal.

We are not convinced by SBT's arguments and adopt the proposed formula to calculate upfront payment for each license:

License population *\$0.005 (the result rounded to the nearest hundred for levels below \$10,000.00 and to the nearest thousand for levels above \$10,000.00) with a minimum of no less than \$2,500.00 per license.

Please note that upfront payments are not attributed to specific licenses, but instead will be translated to bidding units to define a bidder's maximum bidding eligibility. For Auction No. 34, the amount of the upfront payment will be translated into bidding units on a one-to-one basis, *e.g.*, a \$25,000 upfront payment provides the bidder with 25,000 bidding units. The total upfront payment defines the maximum amount of bidding units on which the applicant will be permitted to bid (including standing high bids) in any single round of bidding. Thus, an applicant does not have to make an upfront payment to cover all licenses for which the applicant has selected on FCC Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

In order to be able to place a bid on a license, in addition to having specified that license on the FCC Form 175, a bidder must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on the FCC Form 175, or else the applicant will not be eligible to participate in the auction.

In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Bidders should check their calculations carefully as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

NOTE: 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 bidding units reflected in its upfront payment.

4. Applicant's Wire Transfer Information for Purposes of Refunds

The Commission will use wire transfers for all Auction No. 34 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting

⁴⁸ SBT's Comments at 3 – 6.

⁴⁹ Nextel's Reply Comments at 8 – 9.

that all pertinent information as listed below be supplied to the FCC. Applicants can provide the information electronically during the initial short form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Michelle Bennett or Gail Glasser, at (202) 418-2843 by July 31, 2000. Should the payer fail to submit the requested information, the refund will be returned to the original payer. For additional information, please call (202) 418-1995.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
Correspondent Bank (if applicable)
ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Part V.D., *below*.

E. Auction Registration

Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Friday, August 11, 2000, should contact the Auctions Hotline at (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

Qualified bidders should note that lost login codes, passwords or bidder identification numbers can be replaced only by appearing in person at the FCC Auction Headquarters located at 445 12th St., S.W., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacement codes must call technical support prior to arriving at the FCC to arrange preparation of new codes.

F. Remote Electronic Bidding Software

Qualified bidders are allowed to bid electronically or telephonically. If choosing to bid electronically, each bidder must purchase their own copy of the remote electronic bidding software. Electronic bids will only be accepted from those applicants purchasing the software. However, the software may be copied by the applicant for use by its authorized bidders at different locations. The price of the FCC's remote bidding software is \$175.00 and must be ordered by Tuesday, August 1, 2000. For security purposes, the software is only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 34. If bidding telephonically, the telephonic bidding phone number will be supplied in the first Federal Express mailing of confidential login codes. Qualified bidders that do not purchase the software may only bid telephonically. To indicate your bidding preference, a FCC Bidding Preference/Remote Software Order Form can be accessed when submitting the FCC Form 175. Bidders should complete this form electronically, print it out, and fax to (717) 338-2850. A manual copy of this form is also included as Attachment F in this public notice.

G. Mock Auction

All qualified bidders will be eligible to participate in a mock auction on Monday, August 14, 2000. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. AUCTION EVENT

The first round of bidding for Auction No. 34 will begin on Wednesday, August 16, 2000. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

1. Simultaneous Multiple Round Auction

In the *Auction No. 34 Comment Public Notice*, we proposed to award the 1,053 licenses in the 800 MHz band in a single, simultaneous multiple round auction.⁵⁰ We received no comment on this issue. We conclude that it is operationally feasible and appropriate to auction the 800 MHz band licenses through a single, simultaneous multiple round auction. Enhancements to the Commission's Automated Auction System software, including license group viewing options and search and sort capabilities, will allow bidders to easily view and access the licenses in Auction No. 34. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of any synergies that exist among licenses and is most administratively efficient.

2. Maximum Eligibility and Activity Rules

In the *Auction No. 34 Comment Public Notice*, we proposed that the amount of the upfront

⁵⁰ *Auction No. 34 Comment Public Notice* at 1.

payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder.⁵¹ We received no comments on this issue.

For Auction No. 34 we will adopt this proposal. The amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. Note again that upfront payments are not attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid. As there is no provision for increasing a bidder's maximum eligibility during the course of an auction (as described under "Auction Stages" as set forth in Part IV.A.4), prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not define the total dollars a bidder may bid on any given license.

In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their maximum eligibility during each round of the auction.

A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (*see* "Minimum Accepted Bids" in Part IV.B.(3), *below*). The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions as set forth under "Auction Stages" in Part IV.A.4 and "Stage Transitions" in Part IV.A.5, *below*, we adopt them for Auction No. 34.

3. Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 34 Comment Public Notice*, we proposed that each bidder in the auction would be provided five activity rule waivers that may be used in any round during the course of the auction.⁵² We received no comment on this issue.

Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. We are satisfied that our practice of providing five waivers over the course of the auction provides a sufficient number of waivers and maximum flexibility to the bidders, while safeguarding the integrity of the auction.

The FCC automated auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the

⁵¹ *Id.* at 4.

⁵² *Id.* at 9.

system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (*see* Part IV.A.4 discussion *below*). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

4. Auction Stages

In the *Auction No. 34 Comment Public Notice*, we proposed to conduct the auction in three stages and employ an activity rule. We further proposed that, in each round of Stage One, a bidder desiring to maintain its current eligibility would be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility.⁵³ In each round of Stage Two, a bidder desiring to maintain its current eligibility would be required to be active on at least 90 percent of its current bidding eligibility. Finally, we proposed that a bidder in Stage Three, in order to maintain eligibility, would be required to be active on 98 percent of its current bidding eligibility. We received no comment on these proposals.

We conclude that the auction will be composed of three stages, which are each defined by an increasing activity rule. We will adopt our proposals for the activity rules. Below are the activity levels for each stage of the auction. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses that represent at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for

⁵³ *Id.* at 6.

the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by ten-ninths (10/9).

Stage Three: During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In this stage, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by fifty-fortyninths (50/49).

CAUTION: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required minimum activity level by using the bidding software's bidding module.

Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 34.

5. Stage Transitions

In the *Auction No. 34 Comment Public Notice*, we proposed that the auction would generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below 10 percent for three consecutive rounds of bidding in each Stage. However, we further proposed that the Bureau would retain the discretion to change stages unilaterally by announcement during the auction. This determination, we proposed, would be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.⁵⁴ We received no comments on this subject.

We adopt our proposal. Thus, the auction will start in Stage One. Under the FCC's general guidelines, the auction will start in Stage One and it will advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). However, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We believe that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 34.

⁵⁴

Id.

6. Auction Stopping Rules

For Auction No. 34, the Bureau proposed to employ a simultaneous stopping rule.⁵⁵ Under this rule, bidding will remain open on all licenses until bidding stops on every license. The auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. After the first such round, bidding closes simultaneously on all licenses.

The Bureau also proposed a modified version of the simultaneous stopping rule. This modified version will close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder will not keep the auction open under this modified stopping rule. The Bureau further sought comment on whether this modified stopping rule should be used unilaterally or only in stage three of the auction.

The Bureau further proposed retaining the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

In addition, we proposed that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (“special stopping rule”). If the Bureau invokes this special 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 specified number of rounds. We proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time.⁵⁶ Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage where bidders will be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day.

No comments were received on any of these issues, therefore, we adopt all of the above proposals concerning the auction stopping rules. Auction No. 34 will begin under the simultaneous stopping rule, and the Bureau will retain the discretion to invoke the other versions of the stopping rule. Adoption of these rules, we believe, is most appropriate for Auction No. 34 because our experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation. The substitutability between and among licenses in different geographic areas and the importance of preserving the ability of bidders to pursue backup strategies support the use of these stopping rules.

7. Auction Delay, Suspension, or Cancellation

In the *Auction No. 34 Comment Public Notice*, we proposed that, by public notice or by

⁵⁵ *Id.* At 9.

⁵⁶ *Id.*

announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding.⁵⁷

Because this approach has proven effective in resolving exigent circumstances in previous auctions, we will adopt our proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

1. Round Structure

The initial bidding schedule will be announced in the public notice listing the qualified bidders which is released approximately 10 days before the start of the auction. This public notice will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will be included in a *Qualified Bidder Public Notice*.⁵⁸

The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

2. Reserve Price or Minimum Opening Bid

Background. The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.⁵⁹ Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum

⁵⁷ *Id.*

⁵⁸ *See, e.g.*, “Closed Broadcast Auction”: 224 Qualified Bidders, *Public Notice*, DA 99-1912 (rel. September 17, 1999).

⁵⁹ *See* Balanced Budget Act, section 3002(a), 47 U.S.C. § 309(j)(4)(F).

opening bid and/or reserve price prior to the start of each auction.⁶⁰ Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on valuation of the spectrum being auctioned.⁶¹ The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.⁶²

In the *Auction No. 34 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 34 and to retain discretion to lower the minimum opening bids.⁶³ Specifically, for Auction No. 34, the Commission proposed the following license-by-license formulas for calculating minimum opening bids, based on the population ("pops") of the EA:

License population * \$0.005 (the result rounded to the nearest hundred for results less than \$10,000 and to the nearest thousand for results greater than \$10,000) with a minimum of no less than \$2,500.00 per license.

In the alternative, the Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.⁶⁴

We will adopt minimum opening bids for Auction 34, which are reducible at the discretion of the Bureau. Congress has enacted a presumption that unless the Commission determines otherwise, minimum opening bids or reserve prices are in the public interest.⁶⁵

In its comments, SBT claimed that proposed calculation for the minimum opening bids was arbitrary and did not account for incumbency. SBT recommended that the Bureau reduce its MOBs to a level no greater than \$1,000.00 per license.⁶⁶ In their reply comments, Nextel asserted that the MOB calculation does account for incumbency and is discounted when compared with the upper bands.⁶⁷ We further reiterate that the Bureau must consider and apply factors that include incumbency and spectrum amount when determining minimum opening bids.

⁶⁰ See Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd. 375, 455-456 ¶ 141 (1997) ("Part 1 Third Report and Order").

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Auction No. 34 Comment Public Notice* at 4.

⁶⁴ *Id.* at 5.

⁶⁵ Section 309(j)(4)(F) of the Communications Act directs the Commission to "prescribe methods by which a reasonable reserve price will be required, or a minimum bid established, to obtain any license or permit being assigned pursuant to the competitive bidding, unless the Commission determines that such a reserve price or minimum bid is not in the public interest."

⁶⁶ SBT's Comments at 3 - 6

⁶⁷ Nextel's Reply Comments at 8 - 9

We are not convinced by SBT's arguments and adopt the proposed formula to calculate minimum opening bids for each license:

License population * \$0.005 (the result rounded to the nearest hundred for results less than \$10,000 and rounded to the nearest thousand for results greater than \$10,000) with a minimum of no less than \$2,500.00 per license.

We conclude that the adopted formula presented here best meets the objectives of our authority in establishing reasonable minimum opening bids. We have noted in the past that the reserve price and minimum opening bid provision is not a requirement to maximize auction revenue but rather a protection against assigning licenses at unacceptably low prices and that we must balance the revenue raising objective against our other public interest objectives in setting the minimum bid level.⁶⁸ For the sake of auction integrity and fairness, minimum opening bids must be set in a manner that is consistent across licenses.

As a final safeguard against unduly high pricing, minimum opening bids are reducible at the discretion of the Bureau. This will allow the Bureau flexibility to adjust the minimum opening bids if circumstances warrant. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any bidder requests to reduce the minimum opening bid on specific licenses.

3. Bid Increments and Minimum Accepted Bids

In the *Auction No. 34 Comment Public Notice*, we proposed to use a smoothing methodology to calculate minimum bid increments.⁶⁹ We further proposed to retain the discretion to change the minimum bid increment if circumstances so dictate.⁷⁰ We received no comment on this issue.

We will adopt our proposal for a smoothing formula. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum value based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity level of a license, decreasing the time it takes for active licenses to reach their final value. The formula used to calculate this increment is included as Attachment G.

We adopt our proposal of initial values for the maximum of 0.2 or 20 percent of the license value, and a minimum of 0.1 or 10 percent of the license value. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. Under its discretion, the Bureau may also implement an absolute dollar floor for the bid increment to further facilitate a timely close of the auction. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant. As an alternative approach, the Bureau may, in its discretion, adjust

⁶⁸ See Auction of 800 MHz SMR Upper 10 MHz Band, Minimum Opening Bids or Reserve Prices, DA 97-2147, *Order*, 12 FCC Rcd. 16354, 16358 (1997).

⁶⁹ *Auction 34 Comment Public Notice* at 7.

⁷⁰ *Id.*

the minimum bid increment gradually over a number of rounds as opposed to single large changes in the minimum bid increment (*e.g.*, by raising the increment floor by one percent every round over the course of ten rounds). The Bureau also retains the discretion to use alternate methodologies, such as a flat percentage increment for all licenses, for Auction No. 34 if circumstances warrant.

4. High Bids

Each bid will be date- and time-stamped when it is entered into the FCC computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which the Commission receives bids. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date- and time-stamped according to when it was submitted, bids submitted by a bidder earlier in a round will have an earlier date and time stamp than bids submitted later in a round.

5. Bidding

During a bidding round, a bidder may submit bids for as many licenses as it wishes, subject to its eligibility, as well as withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round, and the date- and time-stamp of that bid reflects the latest time the bid was submitted.

Please note that all bidding will take place remotely either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid, by placing their calls well in advance of the close of a round. Normally four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 34.

A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (1) the licenses applied for on FCC Form 175; and (2) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. A bidder also has the option to further tailor its bid submission screens to call up specified groups of licenses.

The bidding software requires each bidder to login to the FCC auction system during the bidding round using the FCC account number, bidder identification number, and the confidential security codes provided in the registration materials. Bidders are strongly encouraged to download and print bid confirmations after they submit their bids.

The bid entry screen of the Automated Auction System software for Auction No. 36 allows bidders to place multiple increment bids. Specifically, high bids may be increased from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for a license. The bidding software will display the bid increment for each license.

To place a bid on a license, the bidder must increase the standing high bid by one to nine times the bid increment. This is done by entering a whole number between 1 and 9 in the bid

increment multiplier (Bid Mult) field in the software. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

$$\text{Amount Bid} = \text{High Bid} + (\text{Bid Mult} * \text{Bid Increment})$$

Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is equal to one bid increment, a bidder will enter "1" in the bid increment multiplier column and press submit.

For any license on which the FCC is designated as the high bidder (*i.e.*, a license that has not yet received a bid in the auction or where the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases no increment exists for the licenses, and bidders should enter "1" in the Bid Mult field. Note that in this case, any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount. Finally, bidders are cautioned in entering numbers in the Bid Mult field because, as explained in the following section, a high bidder that withdraws its standing high bid from a previous round, even if mistakenly or erroneously made, is subject to bid withdrawal payments.

6. Bid Removal and Bid Withdrawal

In the *Auction No. 34 Comment Public Notice*, we proposed bid removal and bid withdrawal rules.⁷¹ With respect to bid withdrawals, we proposed limiting each bidder to withdrawals in no more than two rounds during the course of the auction. The two rounds in which withdrawals are utilized, we proposed, would be at the bidder's discretion. We received no comment on this issue.

In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various geographic area licenses in combination, we conclude that, for Auction No. 34, adoption of a limit on their use to two rounds is the most appropriate outcome. By doing so we believe we strike a reasonable compromise that will allow bidders to use withdrawals. Our decision on this issue is based upon our experience in prior auctions, particularly the PCS D, E and F block auctions, and 800 MHz SMR auction, and is in no way a reflection of our view regarding the likelihood of any speculation or "gaming" in this auction.

The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals during the auction will still be subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market. If a high bid is withdrawn, the license will be offered 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, without any bid increment. The Commission will serve as a "place holder" on the license until a new acceptable bid is submitted on that license.

⁷¹ *Auction 34 Comment Public Notice* at 9.

Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the software, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, i.e. a bid that is subsequently removed does not count toward the bidder's activity requirement. This procedure, about which we received no comments, will enhance bidder flexibility during the auction. Therefore, we will adopt these procedures for Auction No. 34.

Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the "withdraw bid" function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). The procedure for withdrawing a bid and receiving a withdrawal confirmation is essentially the same as the bidding procedure described in "High Bids," Part IV.B.4.

Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction.⁷² Specifically, a bidder ("Bidder X") that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount withdrawn and the amount of the subsequent winning bid. If a high bid is withdrawn on a license that remains unsold at the close of the auction, Bidder X will be required to make an interim payment equal to three (3) percent of the net amount of the withdrawn bid.⁷³ This payment amount is deducted from any upfront payments or down payments that Bidder X has deposited with the Commission. If, in a subsequent auction, that license receives a valid bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and Bidder X may request a refund of the interim three (3) percent payment. If, in a subsequent auction, the winning bid amount for that license is less than Bidder X's withdrawn bid amount, then Bidder X will be required to make a final bid withdrawal payment, less the three percent interim payment, equal to either the difference between Bidder X's net withdrawn bid and the subsequent net winning bid, or the difference between Bidder X's gross withdrawn bid and the subsequent gross winning bid, whichever is less.

7. Round Results

Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Commission will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 34 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

⁷² See 47 C.F.R. §§ 1.2104(g) and 1.2109.

⁷³ See, e.g., "Phase II 220 MHz Service Auction Closes, Winning Bidders in the Auction of 908 Phase II 220 Public Notice, 14 FCC Rcd. 605 (1998).

8. Auction Announcements

The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as the Internet.

9. Maintaining the Accuracy of FCC Form 175 Information

As noted in Part II.E., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to:

Amy Zoslov, Chief,
Auctions and Industry Analysis Division,
Wireless Telecommunications Bureau,
Federal Communications Commission,
445 12th Street, S.W., Washington, D.C. 20554

A separate copy of the letter should be mailed to M. Nicole Oden, Auctions and Industry Analysis Division, 4-A337, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Questions about other changes should be directed to M. Nicole Oden, Auctions and Industry Analysis Division at (202) 418-0660.

V. POST-AUCTION PROCEDURES

A. Down Payments and Withdrawn Bid Payments

After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bids and bidders for each license, and listing withdrawn bid payments due.

Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable bidding credits). *See* 47 C.F.R. § 1.2107(b). In addition, by the same deadline all bidders must pay any withdrawn bid amounts due under 47 C.F.R. § 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," Part IV.B.6. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Long-Form Application

Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application and required exhibits for each 800 MHz license won through the auction. Winning bidders that are small businesses or very small businesses must include an exhibit demonstrating their eligibility for bidding credits. *See* 47 C.F.R. § 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

C. Default and Disqualification

Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 C.F.R. § 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 C.F.R. § 1.2109(b) and (c). 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* 47 C.F.R. § 1.2109(d).

D. Refund of Remaining Upfront Payment Balance

All applicants that submitted upfront payments but were not winning bidders for a 800 MHz license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request . If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification Number ("TIN"). Send refund request to:

Federal Communications Commission
Financial Operations Center
Auctions Accounting Group
Shirley Hanberry
445 12th Street, S.W., Room 1-A824
Washington, D.C. 20554

Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418-2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

NOTE: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Michelle Bennett or Gail Glasser at (202) 418-1995.

Media Contact: Meribeth McCarrick at (202) 418-0654

Auctions and Industry Analysis Division: M. Nicole Oden, Legal Branch at (202) 418-0660; Nancy Gilbert or Bob Reagle, Auctions Operations Branch at (717) 338-2888

Commercial Wireless Division: Bettye Woodward, Licensing and Technical Analysis Branch at (202) 418-1345

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VI. ATTACHMENT A

GENERAL CATEGORY BAND LICENSES TO BE AUCTIONED

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA001	Bangor, ME	YCBEA001 (D - FF)	533,135	2,700	\$2,700.00	\$2,700.00
BEA002	Portland, ME	YCBEA002 (D - FF)	694,793	3,500	\$3,500.00	\$3,500.00
BEA003	Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH-RI-VT	YCBEA003 (D - FF)	7,445,016	37,000	\$37,000.00	\$37,000.00
BEA004	Burlington, VT-NY	YCBEA004 (D - FF)	568,377	2,800	\$2,800.00	\$2,800.00
BEA005	Albany-Schenectady-Troy, NY	YCBEA005 (D - FF)	1,147,154	5,700	\$5,700.00	\$5,700.00
BEA006	Syracuse, NY-PA	YCBEA006 (D - FF)	1,934,632	9,700	\$9,700.00	\$9,700.00
BEA007	Rochester, NY-PA	YCBEA007 (D - FF)	1,457,846	7,300	\$7,300.00	\$7,300.00
BEA008	Buffalo-Niagara Falls, NY-PA	YCBEA008 (D - FF)	1,529,735	7,600	\$7,600.00	\$7,600.00
BEA009	State College, PA	YCBEA009 (D - FF)	798,826	4,000	\$4,000.00	\$4,000.00
BEA010	New York-North New Jersey-Long Island, NY-NJ-CT-PA-MA-VT	YCBEA010 (D - FF)	23,919,008	120,000	\$120,000.00	\$120,000.00
BEA011	Harrisburg-Lebanon-Carlisle, PA	YCBEA011 (D - FF)	1,026,459	5,100	\$5,100.00	\$5,100.00
BEA012	Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD	YCBEA012 (D - FF)	6,915,860	35,000	\$35,000.00	\$35,000.00
BEA013	Washington-Baltimore, DC-MD-VA-WV-PA	YCBEA013 (D - FF)	7,454,633	37,000	\$37,000.00	\$37,000.00
BEA014	Salisbury, MD-DE-VA	YCBEA014 (D - FF)	290,800	2,500	\$2,500.00	\$2,500.00
BEA015	Richmond-Petersburg, VA	YCBEA015 (D - FF)	1,247,627	6,200	\$6,200.00	\$6,200.00
BEA016	Staunton, VA-WV	YCBEA016 (D - FF)	301,626	2,500	\$2,500.00	\$2,500.00
BEA017	Roanoke, VA-NC-WV	YCBEA017 (D - FF)	760,378	3,800	\$3,800.00	\$3,800.00
BEA018	Greensboro-Winston-Salem-High Point, NC-VA	YCBEA018 (D - FF)	1,604,323	8,000	\$8,000.00	\$8,000.00
BEA019	Raleigh-Durham-Chapel Hill, NC	YCBEA019 (D - FF)	1,412,330	7,100	\$7,100.00	\$7,100.00
BEA020	Norfolk-Virginia Beach-Newport News, VA-NC	YCBEA020 (D - FF)	1,588,174	7,900	\$7,900.00	\$7,900.00
BEA021	Greenville, NC	YCBEA021 (D - FF)	743,407	3,700	\$3,700.00	\$3,700.00
BEA022	Fayetteville, NC	YCBEA022 (D - FF)	465,018	2,500	\$2,500.00	\$2,500.00
BEA023	Charlotte-Gastonia-Rock Hill, NC-SC	YCBEA023 (D - FF)	1,626,519	8,100	\$8,100.00	\$8,100.00
BEA024	Columbia, SC	YCBEA024 (D - FF)	815,834	4,100	\$4,100.00	\$4,100.00

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA025	Wilmington, NC-SC	YCBEA025 (D - FF)	716,089	3,600	\$3,600.00	\$3,600.00
BEA026	Charleston-North Charleston, SC	YCBEA026 (D - FF)	541,252	2,700	\$2,700.00	\$2,700.00
BEA027	Augusta-Aiken, GA-SC	YCBEA027 (D - FF)	536,809	2,700	\$2,700.00	\$2,700.00
BEA028	Savannah, GA-SC	YCBEA028 (D - FF)	550,623	2,800	\$2,800.00	\$2,800.00
BEA029	Jacksonville, FL-GA	YCBEA029 (D - FF)	1,557,922	7,800	\$7,800.00	\$7,800.00
BEA030	Orlando, FL	YCBEA030 (D - FF)	2,836,481	14,000	\$14,000.00	\$14,000.00
BEA031	Miami-Fort Lauderdale, FL	YCBEA031 (D - FF)	4,538,394	23,000	\$23,000.00	\$23,000.00
BEA032	Fort Myers-Cape Coral, FL	YCBEA032 (D - FF)	487,212	2,500	\$2,500.00	\$2,500.00
BEA033	Sarasota-Bradenton, FL	YCBEA033 (D - FF)	624,323	3,100	\$3,100.00	\$3,100.00
BEA034	Tampa-St. Petersburg-Clearwater, FL	YCBEA034 (D - FF)	2,067,959	10,000	\$10,000.00	\$10,000.00
BEA035	Tallahassee, FL-GA	YCBEA035 (D - FF)	610,116	3,100	\$3,100.00	\$3,100.00
BEA036	Dothan, AL-FL-GA	YCBEA036 (D - FF)	307,026	2,500	\$2,500.00	\$2,500.00
BEA037	Albany, GA	YCBEA037 (D - FF)	415,342	2,500	\$2,500.00	\$2,500.00
BEA038	Macon, GA	YCBEA038 (D - FF)	686,336	3,400	\$3,400.00	\$3,400.00
BEA039	Columbus, GA-AL	YCBEA039 (D - FF)	449,582	2,500	\$2,500.00	\$2,500.00
BEA040	Atlanta, GA-AL-NC	YCBEA040 (D - FF)	4,067,704	20,000	\$20,000.00	\$20,000.00
BEA041	Greenville-Spartanburg-Anderson, SC-NC	YCBEA041 (D - FF)	1,083,199	5,400	\$5,400.00	\$5,400.00
BEA042	Asheville, NC	YCBEA042 (D - FF)	371,635	2,500	\$2,500.00	\$2,500.00
BEA043	Chattanooga, TN-GA	YCBEA043 (D - FF)	635,535	3,200	\$3,200.00	\$3,200.00
BEA044	Knoxville, TN	YCBEA044 (D - FF)	840,395	4,200	\$4,200.00	\$4,200.00
BEA045	Johnson City-Kingsport-Bristol, TN-VA	YCBEA045 (D - FF)	524,270	2,600	\$2,600.00	\$2,600.00
BEA046	Hickory-Morganton, NC-TN	YCBEA046 (D - FF)	445,736	2,500	\$2,500.00	\$2,500.00
BEA047	Lexington, KY-TN-VA-WV	YCBEA047 (D - FF)	1,731,306	8,700	\$8,700.00	\$8,700.00
BEA048	Charleston, WV-KY-OH	YCBEA048 (D - FF)	1,196,043	6,000	\$6,000.00	\$6,000.00
BEA049	Cincinnati-Hamilton, OH-KY-IN	YCBEA049 (D - FF)	2,003,480	10,000	\$10,000.00	\$10,000.00
BEA050	Dayton-Springfield, OH	YCBEA050 (D - FF)	1,125,936	5,600	\$5,600.00	\$5,600.00
BEA051	Columbus, OH	YCBEA051 (D - FF)	2,100,613	11,000	\$11,000.00	\$11,000.00
BEA052	Wheeling, WV-OH	YCBEA052 (D - FF)	346,375	2,500	\$2,500.00	\$2,500.00
BEA053	Pittsburgh, PA-WV	YCBEA053 (D - FF)	3,003,172	15,000	\$15,000.00	\$15,000.00

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA054	Erie, PA	YCBEA054 (D - FF)	512,673	2,600	\$2,600.00	\$2,600.00
BEA055	Cleveland-Akron, OH-PA	YCBEA055 (D - FF)	4,564,666	23,000	\$23,000.00	\$23,000.00
BEA056	Toledo, OH	YCBEA056 (D - FF)	1,278,722	6,400	\$6,400.00	\$6,400.00
BEA057	Detroit-Ann Arbor-Flint, MI	YCBEA057 (D - FF)	6,626,919	33,000	\$33,000.00	\$33,000.00
BEA058	Northern Michigan, MI	YCBEA058 (D - FF)	230,066	2,500	\$2,500.00	\$2,500.00
BEA059	Green Bay, WI-MI	YCBEA059 (D - FF)	624,600	3,100	\$3,100.00	\$3,100.00
BEA060	Appleton-Oshkosh-Neenah, WI	YCBEA060 (D - FF)	380,610	2,500	\$2,500.00	\$2,500.00
BEA061	Traverse City, MI	YCBEA061 (D - FF)	238,720	2,500	\$2,500.00	\$2,500.00
BEA062	Grand Rapids-Muskegon-Holland, MI	YCBEA062 (D - FF)	1,666,950	8,300	\$8,300.00	\$8,300.00
BEA063	Milwaukee-Racine, WI	YCBEA063 (D - FF)	2,119,557	11,000	\$11,000.00	\$11,000.00
BEA064	Chicago-Gary-Kenosha, IL-IN-WI	YCBEA064 (D - FF)	9,317,947	47,000	\$47,000.00	\$47,000.00
BEA065	Elkhart-Goshen, IN-MI	YCBEA065 (D - FF)	864,201	4,300	\$4,300.00	\$4,300.00
BEA066	Fort Wayne, IN	YCBEA066 (D - FF)	666,421	3,300	\$3,300.00	\$3,300.00
BEA067	Indianapolis, IN-IL	YCBEA067 (D - FF)	2,753,182	14,000	\$14,000.00	\$14,000.00
BEA068	Champaign-Urbana, IL	YCBEA068 (D - FF)	623,541	3,100	\$3,100.00	\$3,100.00
BEA069	Evansville-Henderson, IN-KY-IL	YCBEA069 (D - FF)	825,644	4,100	\$4,100.00	\$4,100.00
BEA070	Louisville, KY-IN	YCBEA070 (D - FF)	1,291,188	6,500	\$6,500.00	\$6,500.00
BEA071	Nashville, TN-KY	YCBEA071 (D - FF)	2,002,283	10,000	\$10,000.00	\$10,000.00
BEA072	Paducah, KY-IL	YCBEA072 (D - FF)	211,179	2,500	\$2,500.00	\$2,500.00
BEA073	Memphis, TN-AR-MS-KY	YCBEA073 (D - FF)	1,687,817	8,400	\$8,400.00	\$8,400.00
BEA074	Huntsville, AL-TN	YCBEA074 (D - FF)	885,020	4,400	\$4,400.00	\$4,400.00
BEA075	Tupelo, MS-AL-TN	YCBEA075 (D - FF)	577,246	2,900	\$2,900.00	\$2,900.00
BEA076	Greenville, MS	YCBEA076 (D - FF)	257,239	2,500	\$2,500.00	\$2,500.00
BEA077	Jackson, MS-AL-LA	YCBEA077 (D - FF)	1,328,647	6,600	\$6,600.00	\$6,600.00
BEA078	Birmingham, AL	YCBEA078 (D - FF)	1,450,463	7,300	\$7,300.00	\$7,300.00
BEA079	Montgomery, AL	YCBEA079 (D - FF)	440,228	2,500	\$2,500.00	\$2,500.00
BEA080	Mobile, AL	YCBEA080 (D - FF)	607,965	3,000	\$3,000.00	\$3,000.00
BEA081	Pensacola, FL	YCBEA081 (D - FF)	515,942	2,600	\$2,600.00	\$2,600.00
BEA082	Biloxi-Gulfport-Pascagoula, MS	YCBEA082 (D - FF)	339,791	2,500	\$2,500.00	\$2,500.00
BEA083	New Orleans, LA-MS	YCBEA083 (D - FF)	1,635,720	8,200	\$8,200.00	\$8,200.00

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA084	Baton Rouge, LA-MS	YCBEA084 (D - FF)	656,284	3,300	\$3,300.00	\$3,300.00
BEA085	Lafayette, LA	YCBEA085 (D - FF)	554,665	2,800	\$2,800.00	\$2,800.00
BEA086	Lake Charles, LA	YCBEA086 (D - FF)	523,289	2,600	\$2,600.00	\$2,600.00
BEA087	Beaumont-Port Arthur, TX	YCBEA087 (D - FF)	422,543	2,500	\$2,500.00	\$2,500.00
BEA088	Shreveport-Bossier City, LA-AR	YCBEA088 (D - FF)	555,385	2,800	\$2,800.00	\$2,800.00
BEA089	Monroe, LA	YCBEA089 (D - FF)	326,897	2,500	\$2,500.00	\$2,500.00
BEA090	Little Rock-North Little Rock, AR	YCBEA090 (D - FF)	1,447,083	7,200	\$7,200.00	\$7,200.00
BEA091	Fort Smith, AR-OK	YCBEA091 (D - FF)	286,113	2,500	\$2,500.00	\$2,500.00
BEA092	Fayetteville-Springdale-Rogers, AR-MO-OK	YCBEA092 (D - FF)	285,955	2,500	\$2,500.00	\$2,500.00
BEA093	Joplin, MO-KS-OK	YCBEA093 (D - FF)	233,725	2,500	\$2,500.00	\$2,500.00
BEA094	Springfield, MO	YCBEA094 (D - FF)	712,422	3,600	\$3,600.00	\$3,600.00
BEA095	Jonesboro, AR-MO	YCBEA095 (D - FF)	290,104	2,500	\$2,500.00	\$2,500.00
BEA096	St. Louis, MO-IL	YCBEA096 (D - FF)	3,402,818	17,000	\$17,000.00	\$17,000.00
BEA097	Springfield, IL-MO	YCBEA097 (D - FF)	499,681	2,500	\$2,500.00	\$2,500.00
BEA098	Columbia, MO	YCBEA098 (D - FF)	321,564	2,500	\$2,500.00	\$2,500.00
BEA099	Kansas City, MO-KS	YCBEA099 (D - FF)	2,224,907	11,000	\$11,000.00	\$11,000.00
BEA100	Des Moines, IA-IL-MO	YCBEA100 (D - FF)	1,604,609	8,000	\$8,000.00	\$8,000.00
BEA101	Peoria-Pekin, IL	YCBEA101 (D - FF)	523,719	2,600	\$2,600.00	\$2,600.00
BEA102	Davenport-Moline-Rock Island, IA-IL	YCBEA102 (D - FF)	548,257	2,700	\$2,700.00	\$2,700.00
BEA103	Cedar Rapids, IA	YCBEA103 (D - FF)	341,001	2,500	\$2,500.00	\$2,500.00
BEA104	Madison, WI-IA-IL	YCBEA104 (D - FF)	837,209	4,200	\$4,200.00	\$4,200.00
BEA105	La Crosse, WI-MN	YCBEA105 (D - FF)	220,502	2,500	\$2,500.00	\$2,500.00
BEA106	Rochester, MN-IA-WI	YCBEA106 (D - FF)	292,175	2,500	\$2,500.00	\$2,500.00
BEA107	Minneapolis-St. Paul, MN-WI-IA	YCBEA107 (D - FF)	3,945,443	20,000	\$20,000.00	\$20,000.00
BEA108	Wausau, WI	YCBEA108 (D - FF)	451,533	2,500	\$2,500.00	\$2,500.00
BEA109	Duluth-Superior, MN-WI	YCBEA109 (D - FF)	340,675	2,500	\$2,500.00	\$2,500.00
BEA110	Grand Forks, ND-MN	YCBEA110 (D - FF)	240,827	2,500	\$2,500.00	\$2,500.00
BEA111	Minot, ND	YCBEA111 (D - FF)	116,054	2,500	\$2,500.00	\$2,500.00
BEA112	Bismarck, ND-MT-SD	YCBEA112 (D - FF)	172,204	2,500	\$2,500.00	\$2,500.00
BEA113	Fargo-Moorhead, ND-MN	YCBEA113 (D - FF)	347,670	2,500	\$2,500.00	\$2,500.00

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA114	Aberdeen, SD	YCBEA114 (D - FF)	84,696	2,500	\$2,500.00	\$2,500.00
BEA115	Rapid City, SD-MT-ND-NE	YCBEA115 (D - FF)	199,782	2,500	\$2,500.00	\$2,500.00
BEA116	Sioux Falls, SD-IA-MN-NE	YCBEA116 (D - FF)	478,307	2,500	\$2,500.00	\$2,500.00
BEA117	Sioux City, IA-NE-SD	YCBEA117 (D - FF)	239,518	2,500	\$2,500.00	\$2,500.00
BEA118	Omaha, NE-IA-MO	YCBEA118 (D - FF)	958,815	4,800	\$4,800.00	\$4,800.00
BEA119	Lincoln, NE	YCBEA119 (D - FF)	341,684	2,500	\$2,500.00	\$2,500.00
BEA120	Grand Island, NE	YCBEA120 (D - FF)	277,509	2,500	\$2,500.00	\$2,500.00
BEA121	North Platte, NE-CO	YCBEA121 (D - FF)	60,432	2,500	\$2,500.00	\$2,500.00
BEA122	Wichita, KS-OK	YCBEA122 (D - FF)	1,094,213	5,500	\$5,500.00	\$5,500.00
BEA123	Topeka, KS	YCBEA123 (D - FF)	444,800	2,500	\$2,500.00	\$2,500.00
BEA124	Tulsa, OK-KS	YCBEA124 (D - FF)	1,259,636	6,300	\$6,300.00	\$6,300.00
BEA125	Oklahoma City, OK	YCBEA125 (D - FF)	1,550,725	7,800	\$7,800.00	\$7,800.00
BEA126	Western Oklahoma, OK	YCBEA126 (D - FF)	144,847	2,500	\$2,500.00	\$2,500.00
BEA127	Dallas-Fort Worth, TX-AR-OK	YCBEA127 (D - FF)	6,180,783	31,000	\$31,000.00	\$31,000.00
BEA128	Abilene, TX	YCBEA128 (D - FF)	213,430	2,500	\$2,500.00	\$2,500.00
BEA129	San Angelo, TX	YCBEA129 (D - FF)	189,093	2,500	\$2,500.00	\$2,500.00
BEA130	Austin-San Marcos, TX	YCBEA130 (D - FF)	922,307	4,600	\$4,600.00	\$4,600.00
BEA131	Houston-Galveston-Brazoria, TX	YCBEA131 (D - FF)	4,567,679	23,000	\$23,000.00	\$23,000.00
BEA132	Corpus Christi, TX	YCBEA132 (D - FF)	500,805	2,500	\$2,500.00	\$2,500.00
BEA133	McAllen-Edinburg-Mission, TX	YCBEA133 (D - FF)	701,888	3,500	\$3,500.00	\$3,500.00
BEA134	San Antonio, TX	YCBEA134 (D - FF)	1,741,991	8,700	\$8,700.00	\$8,700.00
BEA135	Odessa-Midland, TX	YCBEA135 (D - FF)	382,517	2,500	\$2,500.00	\$2,500.00
BEA136	Hobbs, NM-TX	YCBEA136 (D - FF)	185,128	2,500	\$2,500.00	\$2,500.00
BEA137	Lubbock, TX	YCBEA137 (D - FF)	357,092	2,500	\$2,500.00	\$2,500.00
BEA138	Amarillo, TX-NM	YCBEA138 (D - FF)	448,258	2,500	\$2,500.00	\$2,500.00
BEA139	Santa Fe, NM	YCBEA139 (D - FF)	208,689	2,500	\$2,500.00	\$2,500.00
BEA140	Pueblo, CO-NM	YCBEA140 (D - FF)	247,124	2,500	\$2,500.00	\$2,500.00
BEA141	Denver-Boulder-Greeley, CO-KS-NE	YCBEA141 (D - FF)	3,031,140	15,000	\$15,000.00	\$15,000.00
BEA142	Scottsbluff, NE-WY	YCBEA142 (D - FF)	91,975	2,500	\$2,500.00	\$2,500.00
BEA143	Casper, WY-ID-UT	YCBEA143 (D - FF)	382,095	2,500	\$2,500.00	\$2,500.00

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA144	Billings, MT-WY	YCBEA144 (D - FF)	362,513	2,500	\$2,500.00	\$2,500.00
BEA145	Great Falls, MT	YCBEA145 (D - FF)	163,284	2,500	\$2,500.00	\$2,500.00
BEA146	Missoula, MT	YCBEA146 (D - FF)	333,984	2,500	\$2,500.00	\$2,500.00
BEA147	Spokane, WA-ID	YCBEA147 (D - FF)	691,806	3,500	\$3,500.00	\$3,500.00
BEA148	Idaho Falls, ID-WY	YCBEA148 (D - FF)	263,379	2,500	\$2,500.00	\$2,500.00
BEA149	Twin Falls, ID	YCBEA149 (D - FF)	136,831	2,500	\$2,500.00	\$2,500.00
BEA150	Boise City, ID-OR	YCBEA150 (D - FF)	408,246	2,500	\$2,500.00	\$2,500.00
BEA151	Reno, NV-CA	YCBEA151 (D - FF)	511,004	2,600	\$2,600.00	\$2,600.00
BEA152	Salt Lake City-Ogden, UT-ID	YCBEA152 (D - FF)	1,635,998	8,200	\$8,200.00	\$8,200.00
BEA153	Las Vegas, NV-AZ-UT	YCBEA153 (D - FF)	943,702	4,700	\$4,700.00	\$4,700.00
BEA154	Flagstaff, AZ-UT	YCBEA154 (D - FF)	299,753	2,500	\$2,500.00	\$2,500.00
BEA155	Farmington, NM-CO	YCBEA155 (D - FF)	150,155	2,500	\$2,500.00	\$2,500.00
BEA156	Albuquerque, NM-AZ	YCBEA156 (D - FF)	762,814	3,800	\$3,800.00	\$3,800.00
BEA157	El Paso, TX-NM	YCBEA157 (D - FF)	807,501	4,000	\$4,000.00	\$4,000.00
BEA158	Phoenix-Mesa, AZ-NM	YCBEA158 (D - FF)	2,365,002	12,000	\$12,000.00	\$12,000.00
BEA159	Tucson, AZ	YCBEA159 (D - FF)	794,180	4,000	\$4,000.00	\$4,000.00
BEA160	Los Angeles-Riverside-Orange County, CA-AZ	YCBEA160 (D - FF)	15,891,818	79,000	\$79,000.00	\$79,000.00
BEA161	San Diego, CA	YCBEA161 (D - FF)	2,498,016	12,000	\$12,000.00	\$12,000.00
BEA162	Fresno, CA	YCBEA162 (D - FF)	1,168,970	5,800	\$5,800.00	\$5,800.00
BEA163	San Francisco-Oakland-San Jose, CA	YCBEA163 (D - FF)	8,033,134	40,000	\$40,000.00	\$40,000.00
BEA164	Sacramento-Yolo, CA	YCBEA164 (D - FF)	1,935,487	9,700	\$9,700.00	\$9,700.00
BEA165	Redding, CA-OR	YCBEA165 (D - FF)	307,572	2,500	\$2,500.00	\$2,500.00
BEA166	Eugene-Springfield, OR-CA	YCBEA166 (D - FF)	689,659	3,400	\$3,400.00	\$3,400.00
BEA167	Portland-Salem, OR-WA	YCBEA167 (D - FF)	2,310,060	12,000	\$12,000.00	\$12,000.00
BEA168	Pendleton, OR-WA	YCBEA168 (D - FF)	176,129	2,500	\$2,500.00	\$2,500.00
BEA169	Richland-Kennewick-Pasco, WA	YCBEA169 (D - FF)	545,747	2,700	\$2,700.00	\$2,700.00
BEA170	Seattle-Tacoma-Bremerton, WA	YCBEA170 (D - FF)	3,445,064	17,000	\$17,000.00	\$17,000.00
BEA171	Anchorage, AK	YCBEA171 (D - FF)	550,043	2,800	\$2,800.00	\$2,800.00
BEA172	Honolulu, HI	YCBEA172 (D - FF)	1,108,229	5,500	\$5,500.00	\$5,500.00

Market No.	License Name	License Number & Block Designator	Population for each Block	Bidding Units for each Block	Upfront Payment for each Block	Minimum Opening Bid for each Block
BEA173	Guam and Northern Mariana Islands	YCBEA173 (D - FF)	176,497	2,500	\$2,500.00	\$2,500.00
BEA174	Puerto Rico and the U.S. Virgin Islands	YCBEA174 (D - FF)	3,623,846	18,000	\$18,000.00	\$18,000.00
BEA175	American Samoa	YCBEA175 (D - FF)	46,773	2,500	\$2,500.00	\$2,500.00
	Totals	175	252,556,989	1,331,000	\$1,331,000.00	\$1,331,000.00
	License Totals	1,050	1,515,341,934	7,986,000	\$7,986,000.00	\$7,986,000.00

Upper Band Licenses To Be Auctioned

Market No.	License Name	Auction No. 16 License Number & Block Designator	Auction No. 34 License Number & Block Designator	Population	Bidding Units	Upfront Payment for each Block*	Minimum Opening Bid*
BEA172	Honolulu, HI	YCE172A	YCBEA172A	1,108,229	5,500	\$5,500.00	\$5,500.00
BEA173	Guam and Northern Mariana Islands	YCE173B	YCBEA173B	176,497	2,600	\$2,600.00	\$2,600.00
BEA173	Guam and Northern Mariana Islands	YCE173C	YCBEA173C	176,497	5,300	\$5,300.00	\$5,300.00

Note: All population figures are from the April 1, 1990 U.S. Census, U.S. Department of Commerce, Bureau of the Census.

VII. ATTACHMENT B

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 34

The FCC will sponsor a one-day seminar for Auction No. 34 applicants. The seminar is free of charge and will provide information about pre-auction procedures, service and auction rules, conduct of the auction, and the FCC remote bidding software.

A maximum of two representatives from each company may attend on a reservation basis, first-come first-served until room capacity is filled. Additional seating may be available on a stand-by basis the day of the seminar. The seminar will be held:

Friday, July 7, 2000
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Registration 8:30 a.m. - 9:30 a.m.
Seminar 9:30 a.m. - 4 p.m.

If hotel accommodations are needed
Please contact 1-888-225-5322 (option #2) for a list of hotels in the area

To register, complete the form below and
return no later than

Thursday, July 6, 2000, by mail or fax to:

FCC Auction 34
Auctions Operations Branch
1270 Fairfield Road
Gettysburg, PA 17325-7245

FAX: 717-338-2850
Phone: 717-338-2888

I/We will attend the Auction No. 34 Seminar, scheduled for **Friday, July 7, 2000**.

Name of attendee: _____

Name of attendee: _____

Company name: _____

Phone: _____ Fax: _____

VIII. ATTACHMENT C

ELECTRONIC FILING AND REVIEW OF THE FCC FORM 175

Applicants must submit their FCC Form 175 applications electronically using the Commission's remote access system. This system will generally be available 24 hours per day. FCC Form 175 applications must be submitted and confirmed by **6:00 p.m. ET on Monday, July 17, 2000**. Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants must press the **175 Submit** button on the *Submit* page to successfully submit their FCC Form 175. The electronic filing process consists of an initial filing period and a resubmission period to make minor corrections. During each filing period, submitted applications may be updated and amended multiple times until the filing deadline.

A. Minimum Hardware and Software Requirements

Applicants will need to meet the following minimum hardware and software requirements:

1. Minimum Hardware Requirements

- CPU: Intel Pentium
RAM: 16 MB (more recommended if you have multiple applications open)
Modem: v.32bis 14.4kbps Hayes compatible modem or faster (recommend 56.6 Kbps)
Monitor: VGA or above
Mouse or other pointing device

2. Minimum Software Requirements

Operating System: Microsoft Windows 95 or 98

PPP (Point-to-Point Protocol) Dialer: Use the Dial-Up Networking feature included with Windows 95/98

Web Browser: Netscape Communicator 4.72 is recommended. However, you can also use Netscape Communicator 4.5, 4.51, 4.61, or 4.7 (Internet web browser software).

Note: To download Netscape Communicator 4.72 free of charge, access the Netscape download site at <http://home.netscape.com/download/>

PDF Viewer: Adobe Acrobat Reader 3.0 or higher (available at <http://www.adobe.com>)

If you wish to use the download feature in the Form 175 Review, you will need a .tar file extraction utility, e.g., Winzip (available at <http://www.winzip.com>) or Pkzip for Windows (available at <http://www.pkware.com/download.html>).

B. Submitting FCC Form 175 Applications

To submit FCC Form 175 applications electronically, you must first connect to the FCC Network via a toll-free phone number (877-844-2788) using Dial-Up Networking. Dial-Up Networking establishes a point-to-point connection from your PC to the FCC Network. *This point-to-point connection is not routed through the Internet.*

Note: For instructions on how to connect to the FCC Network using Dial-Up Networking, see the *Accessing the FCC Network to File FCC Form 175* attachment.

After you have connected to the FCC Network, start your Netscape Web browser. In your browser's *Location* field, enter ***http://wtbwww34.fcc.gov*** and then click **175 Submit**.

When uploading attachments in FCC Form 175 Submission, applicants may use a variety of file formats -- including Word 97 or earlier, WordPerfect 6.x or earlier, Adobe PDF, and ASCII text -- and should verify that the files contain all exhibit information. Graphics file uploads (e.g., *.bmp*, *.tiff*, *.jpg*) and spreadsheets (e.g., Excel, Lotus) are not supported, and graphics images should not be imported into any word processing files that are uploaded. ***Do not upload a password-protected file. The FCC system will not be able to open it or convert it.***

After you upload an attachment, check to see if it converted properly by selecting the PDF filename in the rightmost column. The conversion process generally completes within thirty minutes. If you are unable to read this file after it has been converted, please do the following:

1. Re-upload the attachment.
2. If the file still has not converted properly, then simplify the formatting of the file.

For example, if you are using a Table structure in a WordPerfect document, remove the Table structure and leave the contents of the table, then re-upload the attachment.

After you have successfully re-uploaded an attachment and it has been converted, please delete the old, unreadable attachment files.

Applicants must press the **Submit Form 175** button on the *Submit* page to successfully submit their FCC Form 175. Pressing **Submit Form 175** produces a confirmation message showing the assigned FCC Account Number. During each filing period, submitted applications may be updated and amended multiple times until the filing deadline.

When you have finished, exit your Web browser; then disconnect from the FCC Network.

C. Reviewing FCC Form 175 Applications

Once the FCC has completed the 175 Review process, you can review FCC Form 175 applications electronically via the Internet. Start your Netscape Web browser. In your browser's *Location* field, enter ***http://wtbwww15.fcc.gov*** and then click **175 Review**.

D. Help

For technical assistance with installing or using FCC software, contact the FCC Technical Support Hotline at (202) 414-1250 (V) or (202) 414-1255 (TTY). The FCC Technical Support Hotline is generally available Monday through Friday, from 8 a.m. to 6 p.m. ET. *All calls to the FCC Technical Support Hotline are recorded.*

IX. ATTACHMENT D

GUIDELINES FOR COMPLETION OF FCC FORM 175 AND EXHIBITS

A. FCC Form 175

Because of the significance of the FCC Form 175 application to the auction, bidders should especially note the following:

Applicant Name: Name given is used as your bidder name in the auction.

Address: Give a street address (not a Post Office box number) for the applicant, suitable for mail or private parcel delivery.

Applicant Classification: Applicants must indicate their legal classification. The FCC Form 175 requires the applicant to classify itself as an individual, joint venture, partnership, trust, corporation, consortium, association, limited liability company (LLC) or government entity.

Applicant Status: Applicants are also requested to indicate their status as a rural telephone company, minority-owned business and/or women-owned business, so that the FCC can monitor its performance in promoting economic opportunities for these designated entities.

Bidding Credit Eligibility: Be advised that this is the sole opportunity applicants have to elect small business or very small business status and bidding credit level (if applicable), and there is no opportunity to change the election once the short-form filing deadline passes.

- Small business or very small business applicants should enter the applicable bidding credit from the drop down menu. Applicants should be aware that this is the sole opportunity that they will have to elect the appropriate bidding credit.

License Selection: Applicants should identify all licenses on which they want to be eligible to bid in the auction. Be advised that there is no opportunity to change this list once the short-form filing deadline passes. It is critically important that you confirm the licenses that you have selected because the FCC auction system will not accept bids on licenses for which an applicant has not applied on its FCC Form 175. **Note that there are multiple channel blocks offered in each geographic area ("Market") and each of these licenses must be selected individually (i.e., selecting channel block G in market BEA001 does not make you eligible to bid on channel block H in market BEA001).** Each row in this license list represents a single license, shown as one market and channel block. Please confirm your license selection, by clicking on the "Confirm" button.

Authorized Bidders: Applicants must list the name(s) of the person(s) (no more than 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. **Note: Applicants may**

only share a common authorized bidder(s) if each applicant has selected separate markets. See 47 CFR § 1.2105(c).

Certifications: Applicants should carefully read the list of certifications on the FCC Form 175. 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 an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

Contact person/address: 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. Space is provided for an address, telephone number, fax number, and e-mail address. All written communication and registration information will be directed to the applicant's contact person at the address specified on the FCC Form 175. Applicants must provide a street address; no P.O. Box addresses may be used.

Completeness: Applicants must submit all information required by the FCC Form 175 and by applicable rules. Failure to submit required information by the resubmission date will result in dismissal of the application and inability to participate in the auction. See 47 C.F.R. § 1.2105(b).

NOTE: Applicants must press the "Submit Form 175" button on the "Submit" page to successfully submit their FCC Form 175.

Continuing Accuracy: Each applicant is responsible for the continuing accuracy and completeness of information furnished in the FCC Form 175 and its exhibits. See 47 C.F.R. § 1.65. It is the FCC's position that during the conduct of an auction, thirty business days from a reportable change is a reasonable period of time. Applicants are reminded that they consent to be audited in the certification section of the FCC Form 175 (see certification item number 6).

B. Exhibits and Attachments

In addition to the FCC Form 175 itself, applicants must submit additional information required by the FCC's rules. Although the FCC does not require a particular format for this information, it has developed the following guidelines that will facilitate the processing of short-form applications. The FCC encourages applicants to submit this information using the following format.

If you find that an attachment has not converted properly to Adobe PDF format, take the following steps:

- 1) Simplify the formatting of the file. For example, if using a Table structure in a WordPerfect document, remove the Table structure leaving the contents of the table, re-save the document.*
- 2) Re-upload the attachment.*
- 3) When the re-uploaded attachment has successfully converted, delete the failed attachment.*

NOTE: Applicants should not list their TIN numbers on any Exhibits to their FCC Form 175s.

Exhibit A -- Applicant Identity and Ownership Information: 47 C.F.R. § 1.2105(a)(2)(ii) requires each applicant to fully disclose the real party or parties-in-interest in an exhibit to its FCC Form 175 application. Each member of an applicant applying to bid as a small or very small business consortium must provide this information. The following information is required:

1. General Information

<i>Applicant Status</i>	<i>Required Information</i>
General Partnership	Name, citizenship, and address of all partners, and the share or interest participation of each partner
Limited Partnership	Name, citizenship, and address of each limited partner whose interest in the applicant is equal to or greater than 10 percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses) Corporation Corporate name and address; and name, title, and citizenship of a responsible officer or director Limited Liability Corporate name and address; and name, address, and citizenship Corporation of all members Trust Name, citizenship, and address of trustee
None of the above	Name, citizenship, title or other relation to the applicant, and address of a principal or other responsible person

2. Ownership Information

<i>Applicant Status</i>	<i>Required Information</i>
All applicants	Name, citizenship, and address of all controlling interests of the applicant as defined in Part II.C.1 of this public notice.
All applicants	Name, citizenship, and address of all parties holding 10 percent or more of each class of stock, warrants, options or debt securities and the amount and percentage held.
All applicants	Name of all parties holding a 10 percent or greater interest in the applicant and the specific amount held.
All applicants	List of any FCC-licensed entity or applicant for an FCC license, in which <ol style="list-style-type: none">the applicant;any party with a 10 percent or greater interest in the applicant; or

- c. a controlling interest (as discussed in Part II.C.1 of this public notice) of the applicant owns a 10 percent or greater interest or 10 percent or more of any class of stock, warrants, options or debt securities. (*See also* 47 C.F.R. §§ 101.1209 and 1.2110) This list must include a description of each such entities' principal business and a description of each such entities' relationship to the applicant.

Example of a. The applicant owns 10 percent of Company A (an FCC-licensed entity or an applicant for an FCC license). The applicant must list Company A on its Form 175 Exhibit A and provide the required information.

Example of b. Company A owns 10 percent of the applicant and 10 percent of Company B (an FCC-licensed entity or an applicant for an FCC license). The applicant must list both Company A and Company B on its Form 175 Exhibit A and provide the required information.

Example of c. Company A owns 55% of the applicant and owns 10 percent of Company B (an FCC-licensed entity or an Applicant for an FCC license). The applicant must list both Company A and Company B on its Form 175 Exhibit A and provide the required information.

All applicants

List of all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages in each link of the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for any link in the chain exceeds 50 percent or represents actual control, it shall be reported as if it were a 100 percent interest.

Example. Company A owns 10% of Company B, which owns 60% of Company C, which owns 25% of the applicant. Company B's interest in the applicant would be 25% (the same as Company C's interest since Company B's interest in Company C exceeds 50%), and Company A's interest in the applicant would be 2.5% ($0.1 * 0.25$). Under the 10% attribution benchmark, Company B's interest in the applicant must be reported on the applicant's FCC Form 175 Exhibit A, while Company A's interest in the applicant need not be reported. However, if Company A owned 40% of Company B in the above example, then Company A's interest in the applicant would be 10% ($0.4 * 0.25$), and the applicant would need to report it on the applicant's FCC Form 175 Exhibit A.

Exhibit B -- Agreements with Other Parties/Joint Bidding Arrangements: Applicants must attach

an exhibit identifying all parties with which they have entered into any agreements, arrangements or understandings which relate in any way to the licenses being auctioned, including any relating to the post-auction market structure. *See* 47 C.F.R. §1.2105(a)(2)(viii).

Be aware that pursuant to Certification (4) on the FCC Form 175, the applicant certifies that it will not enter into any explicit or implicit agreements or understandings of any kind with parties not identified in the application regarding bid amounts, bidding strategies, or the particular licenses the applicant will or will not bid. *See* 47 C.F.R. § 1.2105(a)(2)(ix). *To prevent collusion, the Commission's Rules generally prohibit communication among applicants for the same license areas between the initial short-form applications filing deadline and the down payment on licenses won, when such communications concern bids, bidding strategies, or settlements.* 47 C.F.R. § 1.2105(c).

Exhibit C -- Status as a Small Business or Very Small Business: Applicants claiming status as a very small business or small business must attach an exhibit providing the following information regarding this status.

Entity

Required Information

Applicant

Average gross revenues for the preceding three years set forth *both separately (e.g., for each of the three preceding three years individually) and in the aggregate* (for all of the preceding three years combined). Certification that the average gross revenues for the preceding three years do not exceed the required limit, or providing average gross revenues for the 3-year period without providing the gross revenues for each of the preceding three years, is insufficient.

Applicant's Affiliates
see 47 CFR § 101.1209

Same information required as discussed above

Applicant's Controlling Interests
See Part II.C.1, *supra*.
See also Report and Order and Second NPRM at ¶¶ 148-54.

Same information required as discussed above

Example. The applicant had gross revenues of \$500,000 in 1997, \$1,000,000 in 1998, and \$3,000,000 in 1999, with average gross revenues for that time period of \$1,500,000. The applicant owns 60% of Company A, making Company A an affiliate of the applicant under Section 1.2110(b)(4)(i)(B), and Company B owns 52% of the applicant (making Company B a controlling interest of the applicant, as defined in Part II.C.1 of this public notice. The applicant's Exhibit C would look like this:

Applicant Name

1997 gross revenues \$ 500,000

1998 gross revenues	\$ 1,000,000
1999 gross revenues	\$ 3,000,000

Average gross revenues for the preceding 3 years	\$ 1,500,000
---	--------------

Company A (an affiliate of the applicant)

1997 gross revenues	\$ enter amount
1998 gross revenues	\$ enter amount
1999 gross revenues	\$ enter amount

Average gross revenues for the preceding 3 years	\$ enter amount
---	-----------------

Company B (a controlling interest in the applicant)

1997 gross revenues	\$ enter amount
1998 gross revenues	\$ enter amount
1999 gross revenues	\$ enter amount

Average gross revenues for the preceding 3 years	\$ enter amount
---	-----------------

TOTAL: combined average gross revenues for the preceding three years of the applicant, the applicant's affiliates and their controlling interests

NOTE: Each member of an applicant that is applying to bid as a consortium of small or very small businesses must provide this information and qualify for the claimed status.

Exhibit D -- Information Requested of Designated Entities: Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(b), or that are rural telephone companies, may attach an exhibit regarding this status. This information, in conjunction with the information requested in Block 10 of the FCC Form 175, will assist the Commission in monitoring the participation of these "designated entities" in its auctions.

Exhibit E -- Miscellaneous Information: Applicants wishing to submit additional information should include it in Exhibit E.

Applicants are reminded that all information required in connection with applications to participate in spectrum auctions is necessary to determine the applicants' qualifications, and as such will be available for public inspection. Required proprietary information may be redacted, or confidentiality may be requested, following the procedures set forth in 47 C.F.R. § 0.459. Such requests must be submitted in writing to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-A760, Washington,

D.C. 20554 (with a separate copy mailed to M. Nicole Oden, Legal Branch, Auctions and Industry Analysis Division, Room 4-A337), in which case the applicant must indicate in Exhibit E that it has filed a confidentiality request. Because the required information bears on applicants' qualifications, the FCC envisions that confidentiality requests will not be routinely granted.

Waivers: Applicants requesting waiver of any rules must submit a statement of reasons sufficient to justify the waiver sought. *See* 47 C.F.R. § 1.3.

X. ATTACHMENT E

AUCTION-SPECIFIC INSTRUCTIONS FOR FCC REMITTANCE ADVICE (FCC FORM 159)

Upfront Payments

The following information supplements the standard instructions for FCC Form 159, and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction No. 34. Applicants need to complete FCC Form 159 carefully, since:

- Mistakes may affect their bidding eligibility; and
- Lack of consistency between information set forth in FCC Form 159, FCC Form 175, long-form application, and correspondence about an application may cause processing delays.

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 Short Form Application are described below:

Block Number	Required Information
1	LOCKBOX # - Enter "358415"
2	Payer Name - Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same as FCC Form 175.
3	Total Amount Paid - Enter the amount of the upfront payment associated with the FCC Form 159.
4-8	Street Address, City, State, ZIP Code - Enter the street mailing address (not Post Office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175, blocks 2 through 5.
9	Daytime Telephone Number - Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code - For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
20A	Payment Type Code - Enter "A34U"
21A	Quantity - Enter the number "1"
22A	Amount Due - Enter the total upfront payment due.
23A	FCC Code 1 - Enter the number "34" (indicating Auction No. 34).

26 Applicant TIN - Same as FCC Form 175, block 7.

NOTES:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If applicant is different from the payer, complete blocks 11 through 18 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since credit card payments will not be accepted for this auction, leave this area blank.

Winning Bidder Requirements, Down Payments and Final Payments

Specific information regarding down payments and final payments will be included in a post-auction public notice announcing the winning bidders.

XI. ATTACHMENT F

**FCC BIDDING PREFERENCE/
REMOTE SOFTWARE ORDER FORM
Auction No. 34**

All qualified applicants who plan to participate in this auction must complete the form below.

Each qualified applicant choosing to bid electronically must purchase their own copy of FCC Remote Bidding Software. Electronic bids will only be accepted from those applicants purchasing the software, however, the software may be copied by the applicant for use by its authorized bidders at different locations.

The price of the FCC Remote Bidding Software is **\$175.00**, which includes a user manual and shipping costs. (Since bidding software is tailored to a specific auction, previous versions will not work for Auction #34.) For security purposes, the software is only mailed to the contact person at the contract address listed on the FCC Form 175.

Completed forms should be printed and either faxed or mailed to the address below, ensuring receipt by no later than 5:30 p.m. ET on **Tuesday, August 1, 2000.**

FCC BIDDING PREFERENCE (Auction No. 34)
Auction Operations Branch
1270 Fairfield Rd.
Gettysburg, PA 17325-7245
FAX: 717-338-2850

Auction Applicant: _____
FCC Assigned Account No. _____ Contact Phone: _____
Contact Name: _____
Contact Address: _____
Contact City: _____ Contact State: _____
Contact Zip: _____ Contact Fax: _____

Bidding Preference: Electronic Telephonic

If planning to bid electronically, please complete the following:
Type: 3.5 Diskette CD-Rom

Payment of \$175.00 US by: Check (payable to FCC) Mastercard Visa

Credit card number _____ Expiration date _____
Name on card _____
Authorized signature _____ Date _____

XII. ATTACHMENT G

Bid Increments and Exponential Smoothing

Background. The Auctions Automation System (“AAS”) calculates the minimum bid increment for each license with a standing high bid in each round of the auction based on all bidding activity for the license. For this auction, the Commission will use a standard exponential smoothing methodology to calculate minimum bid increments.

The AAS’ exponential smoothing formula calculates the bid increment based on a weighted average of activity received for each license in all previous rounds. This methodology allows the Commission to tailor each license’s bid increment based on its specific level of activity throughout the auction and provides a fairer means to determine license value.

Calculation. The calculation of the percentage bid increment increase for each license for the current round is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1, and the maximum percentage increment at 0.2. (See example below.)

Equations

$$A_i = (C * B_i) + ((1-C) * A_{i-1})$$

$$I_{i+1} = \text{smaller of } ((1 + A_i) * N) \text{ and } M$$

where,

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bids in the current round (round i)

A_{i-1} = activity index from previous round (round $i-1$), A_0 is 0

I_{i+1} = percentage bid increment for the next round (round $i+1$)

N = minimum percentage increment or bid increment floor

M = maximum percentage increment or bid increment ceiling

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the dollar amount associated with the percentage increment (variable I_{i+1} from above times the high bid). This result will be rounded to the nearest thousand if the minimum acceptable bid is over ten

thousand dollars or to the nearest hundred if it is under ten thousand dollars.

Examples

License 1

$C=0.5$, $N = 0.1$, $M = 0.2$

Round 1 (2 new bids, high bid = \$1,000,000)

1. Calculation of percentage increment for round 2 using exponential smoothing:

$$A_1 = (0.5 * 2) + (0.5 * 0) = 1$$

The smaller of $I_2 = (1 + 1) * 0.1 = 0.2$ or 0.2 (the maximum percentage increment)

2. Minimum bid increment for round 2 using the percentage increment (I_2 from above)

$$0.2 * \$1,000,000 = \$200,000$$

3. Minimum acceptable bid for round 2 = \$1,200,000

Round 2 (3 new bids, high bid = \$2,000,000)

1. Calculation of percentage increment for round 3 using exponential smoothing:

$$A_2 = (0.5 * 3) + (0.5 * 1) = 2$$

The smaller of $I_3 = (1 + 2) * 0.1 = 0.3$ or 0.2 (the maximum percentage increment)

2. Minimum bid increment for round 3 using the percentage increment (I_3 from above)

$$0.2 * \$2,000,000 = \$400,000$$

3. Minimum acceptable bid for round 3 = \$2,400,000

Round 3 (1 new bid, high bid = \$2,400,000)

1. Calculation of percentage increment for round 4 using exponential smoothing:

$$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$$

The smaller of $I_4 = (1 + 1.5) * 0.1 = 0.25$ or 0.2 (the maximum percentage increment)

2. Minimum bid increment for round 4 using the percentage increment (I_4 from above)

$$0.2 * \$2,400,000 = \$480,000$$

3. Minimum acceptable bid for round 4 = \$2,880,000

XIII. ATTACHMENT H

ACCESSING THE FCC NETWORK TO FILE FCC FORM 175

This attachment describes how to access the FCC Network from a system that is running the Microsoft Windows 95 or Microsoft Windows 98 operating system. This involves configuring dial-up network access and then performing the dial-up procedure. Dial-up access to the FCC Network is required to submit FCC Form 175 applications electronically.

Note: Dial-up access to the FCC Network is *not* required to review FCC Form 175 applications. You can perform that function from the Internet, by entering location ***http://wtbwww15.fcc.gov/*** on your Netscape Web browser and clicking the **175 Review** button.

Conventions

The instructions in this section use the following typographical conventions:

bold Represents objects on the screen that you click with the mouse pointer, including buttons, Internet links, icons, tabs, menu items (e.g., **Cancel** button, **Auctions** link, **Save** option in the File menu).

italic Represents field names or areas of a screen (e.g., *Applicant* field, *Selected Licenses* area of a screen).

bold italic Represents characters that you must type exactly as they appear in the instructions. For example, if you are instructed to type ***http://wtbwww34.fcc.gov***, you should type all of the characters shown in bold italic exactly as they are printed.

SMALL CAPS Represents keys on the keyboard (e.g., ENTER, CTRL, ESC).

Note: Throughout these instructions, “enter” means to type the appropriate information and then press the ENTER key.

A. Accessing the FCC Network to Submit FCC Form 175 Applications

The following section provides the instructions for configuring the dial-up network access in preparation for submitting FCC Form 175 applications. The subsequent section gives the dial-up procedure.

1. Configuring Dial-Up Networking

1. To start dial-up networking:
 - a. Click the Windows 95/98 **Start** button.
 - b. Click the **Programs** option to display the Programs menu.
 - c. Click the **Accessories** option to display the Accessories menu.
 - d. In Windows 95, click **Dial-Up Networking**.
In Windows 98, click **Communications**, then **Dial-Up Networking**.

If **Dial-Up Networking** is not an option on your Accessories menu, you should install it from your Windows 95/98 CD or diskettes.

2. When the Dial-Up Networking window appears, double-click the **Make New Connection** icon.

The Make New Connection window appears.

3. Type **FCC Auctions 877#** in the field titled *Type a name for the computer you are dialing*.
4. In Windows 95, click the down arrow at the right of the *Select a modem* field and select your modem from the menu of available modems.

In Windows 98, click the down arrow at the right of the *Select a device* field and select your modem from the menu of available devices.

If your modem does not appear on this list, you must install your modem driver according to the modem manufacturer installation procedures, which are usually described in your modem's user manual.

5. Click the **Next** button.

6. Type **877** and **844-2788** in the *Area Code* and *Telephone Number* fields, respectively.
If you need to dial 9 or some other digit to get an outside line, include that digit in the *Area Code* field. For example, you might type **9, 1 877** in this field.
7. Verify that the correct country is selected in the *Country code* field.
If necessary, click the down arrow at the right of the *Country code* field and select the appropriate country from the menu of available countries.
8. Click the **Next** button.
9. Click the **Finish** button.
An icon labeled *FCC Auctions 877#* appears in the Dial-Up Networking window.
10. Verify that properties are configured correctly before attempting a dial-up session. Put the mouse pointer on the icon and click the **right** mouse button to display a menu. Click **Properties** from the menu.
11. Click the **Configure** button. Click the **Options** tab at the top of the Properties window.
12. In the *Connection control* area of the Options tab, verify that *neither* option is selected. If either option is selected, click the check box at the left of the option to deselect it. Then click **OK**.
13. In Windows 95, click the **Server Type...** button.
In Windows 98, click the **Server Types** tab at the top of the Properties window.
14. In the *Advanced Options* area, verify that **only** *Enable software compression* is selected. If it is not selected, click the check box at the left of the option to select it. If either of the other options is selected, click the check box to deselect it.
15. In the *Allowed Network Protocols* area, verify that only *TCP/IP* is selected.
If it is not selected, click the check box at the left of the option to select it. If either of the other options is selected, click the check box to deselect it.
16. Click the **TCP/IP Settings** button. On the TCP/IP Settings window, select *Server assigned IP addresses* at the top and select *Specify name server addresses* midway down the window.

17. Type **165.135.79.95** as the Primary DNS.
Ensure that these two options are checked:
 - Use IP header compression
 - Use default gateway or remote network
18. Click **OK** on the *TCP/IP Settings* window and the *Server Type* window.
19. Close the *Dial-Up Networking* window.
20.
 - a. Click the Windows 95/98 **Start** button, then click the **Settings** option to display the Settings menu.
 - b. Click **Control Panel** and then double-click the **Network** icon.
 - c. Highlight the *TCP/IP Protocol* and click **Properties**. If there are multiple TCP/IP protocols, highlight *TCP/IP --> Dial-Up Adapter* and click **Properties**.

In a Windows 98 environment, a confirmation dialog appears. Read the information on the dialog, then click the **OK** button.
 - d. Click the **DNS Configuration** tab and then click the **Enable DNS** radio button at the top.
 - e. Type **bidder** in the *Host* box, type **fcc.gov** in the *Domain* box, then type **165.135.79.95** in the DNS Server Search Order box and click the **Add** button.

Note: You are limited to three DNS entries. If you already have three DNS entries, you must delete one of them before performing this step. To do this, click the entry you want to delete and then click the **Remove** button.
 - f. Click **OK** on the TCP/IP Properties windows, then click **OK** on the Network windows.
 - g. If you are prompted to restart your computer, click **Yes** to restart, then begin the Dial-Up Procedure.

2. Dial-Up Procedure

1. If the Dial-Up Networking window is not currently open, do the following:
 - a. Click the Windows 95/98 **Start** button.
 - b. Click the **Programs** option to display the Programs menu.
 - c. Click the **Accessories** option to display the Accessories menu.
 - d. In Windows 95, click **Dial-Up Networking**
In Windows 98, click **Communications**, then **Dial-Up Networking**.

The Dial-Up Networking window appears.

2. In the Dial-Up Networking window, double-click the **FCC Auctions 877#** icon.
3. Click the **Connect** button on the window. Do not enter User name and Password.

The Connection window appears, indicating the status of your connection as your modem dials into the system. This window must remain running during your dial-up session. You may minimize the window, if you wish.

If your modem fails to establish a connection, please see the *Troubleshooting* section.

4. Once the connection is established, open your Web browser.
5. In your browser's *Location* field, enter **http://wtbwww34.fcc.gov** (primary location) or **http://wtbwww04.fcc.gov** (secondary location).

If nothing appears in your Web browser, please see the *Troubleshooting* section.

6. When you have finished, exit the Web browser, then click the **Disconnect** button on the Connection window to end your dial-up session.

B. Troubleshooting

Following are problems you may encounter and possible solutions for resolving or isolating them.

1. Modem does not respond

1. Confirm that all physical connections for the modem are present.
2. Confirm that the phone line is active by connecting it to a telephone and checking for a dial-tone.
3. Confirm that the correct modem driver is installed for your modem.

2. Modem dials but does not connect

1. Confirm that the number the modem is dialing is correct.
2. Confirm that the modem prefix, if any, is correct.

Using a Backup Dial-In Number. If the number and prefix are correct, the 877 number being dialed may be experiencing problems. In this case, you can reconfigure the dial-up software using an alternate dial-in number, which is also toll-free. To use the backup number, perform the *Configuring Dial-Up Networking* procedure again, but this time make the following changes:

- In Step 3, type **FCC Auctions 800#** in the field titled *Type a name for the computer you are dialing*.
- In Step 6, type **800** and **378-7435** in the *Area Code* and *Telephone Number* fields, respectively.
- In Step 17, type **165.135.22.249** as the Primary DNS.
- In Step 20e, type **165.135.22.249** in the DNS Server Search Order box.

3. Modem dials and connects, but nothing appears when you enter the Location in the Web browser

1. Verify the Dial-Up Networking settings specified in the *Configuring Dial-Up Networking* section.
2. Confirm that your Web browser is not using proxies:
 - a) On your browser, click the **Preferences** option in the Edit menu.
 - b) In the Category area at the left, double-click **Advanced**.
 - c) Click the Advanced structure's **Proxies** option.
 - d) Click the radio button labeled **Direct connection to the Internet**.
 - e) Click the **OK** button at the bottom of the window.

4. Receive an Internal Server error in the Web browser

1. Confirm that the *Location* is set to ***http://wtbwww34.fcc.gov*** or ***http://wtbwww04.fcc.gov***
2. On your browser, click the **Preferences** option in the Edit menu. In the Category area at the left, double-click **Advanced**. In the area at the top, confirm that *Enable Java* and *Enable JavaScript* are selected. In the Cookies area, confirm that *Accept all cookies* is selected.

C. Help

For technical assistance with installing or using FCC software, contact the FCC Technical Support Hotline at (202) 414-1250 (V) or (202) 414-1255 (TTY). The FCC Technical Support Hotline is generally available Monday through Friday, from 8 a.m. to 6 p.m. ET. *All calls to the FCC Technical Support Hotline are recorded*

XIV. ATTACHMENT I

SUMMARY LISTING OF DOCUMENTS FROM THE COMMISSION AND THE WIRELESS TELECOMMUNICATIONS BUREAU ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULES

All of the following documents can be found at FCC web site:
<http://www.fcc.gov/wtb/auctions/collusio/collusio.html>

Commission Decisions:

Second Report and Order in PP Docket No. 93-253, FCC 94-61, 9 FCC Rcd. 2348, 2386-2388 (1994), paragraphs 221-226.

Fifth Report and Order in PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532, 5570-5571 (1994), paragraphs 91-92.

Fourth Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-264, 9 FCC Rcd. 6858, 6866-6869 (1994), paragraphs 47-60.

Second Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-215, 9 FCC Rcd. 7245, 7253-7255 (1994), paragraphs 48-55.

Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-295, 9 FCC Rcd. 7684, 7687-7689 (1994), paragraphs 8-12.

In re Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd. 4277 (1995), In re Commercial Realty St. Pete, *Memorandum Opinion and Order*, 11 FCC Rcd. 15374 (1996).

In re Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd. 17970 (1997) (petition for partial reconsideration pending).

Amendment of Part 1 of the Commission's rules -- Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, FCC 97-413, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd. 374, 463-469 (1997), paragraphs 155-166.

In re Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, FCC 98-41 (March 16, 1998).

In re Application of Western PCS BTA I Corporation, *Notice of Apparent Liability for Forfeiture*, FCC 98-42 (March 16, 1998).

Wireless Telecommunications Bureau Decisions:

Amendment of Parts 21 and 74 of the Commission's rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, *Order*, 11 FCC Rcd. 9655 (Wireless Tel. Bur. 1995).

In re Applications of GWI PCS, Inc. For Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C, *Memorandum Opinion and Order*, 12 FCC Rcd. 6441 (Wireless Tel. Bur. 1997).

In re Applications of Mercury PCS II, LLC, For Facilities in the Broadband Personal Communications Services in the D, E, and F Blocks, *Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 18093 (Wireless Tel. Bur. 1997).

In the Matter of Applications of High Plains Wireless, L.P., For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 12 FCC Rcd. 19627 (Wireless Tel. Bur. 1997).

In the Matter of Applications of Mercury PCS II, LLC, For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 13 FCC Rcd. 5756 (Wireless Tel. Bur. 1997).

Public Notices:

"Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, 11 FCC Rcd. 9645 (1995).

"FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS 'C' Block Reauction," *Public Notice*, 11 FCC Rcd. 7031 (1996).

"Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders," *Public Notice*, 11 FCC Rcd. 10134 (1996).

Letters from the Office of General Counsel and the Wireless Telecommunications Bureau:

Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

Letter to Alan F. Ciamporzero from William E Kennard, General Counsel, Federal Communications Commission (released October 25, 1996).

Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 1, 1994).

Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 14, 1994).

Letter to Jonathan D. Blake and Robert J. Rini from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 95-2404 (released November 28, 1995).

Letter to Mark Grady from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 10895 (1996).

Letter to David L. Nace from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 11363 (1996).

Letter to Elliott J. Greenwald from Christopher J. Wright, General Counsel, Federal Communications Commission (released April 6, 1998).

Civil Actions Initiated by U.S. Department of Justice:

U.S. v. Omnipoint Corp., Proposed Final Judgements and Competitive Impact Statements, Department of Justice, 63 FR 65228 (November 25, 1998).

"Justice Department Sues Three Firms Over FCC Auction Practices," *Press Release, U.S. Department of Justice* (November 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. November 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. November 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. November 10, 1998).

Miscellaneous:

Many of these documents can be retrieved from the following Commission web site:

<http://www.fcc.gov/wtb/auctions/collusio/collusio.html>

These documents may be located by using our search engine (select the link "search"). All of these documents can be ordered in hard copy for a fee from the Commission's contractor, International Transcription Service, Inc. at (202) 314-3070.

Documents retrieved from the FCC web site are available in various formats. In order to review a document in its entirety, including footnotes, it is necessary to access the document in WordPerfect, MS Word, or Acrobat Reader.