



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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June 5, 2000

AUCTION NOTICE AND FILING REQUIREMENTS FOR A NEW TELEVISION STATION CONSTRUCTION PERMIT, CHANNEL 52 AT BLANCO, TEXAS

Auction Scheduled for July 12, 2000

Minimum Opening Bid and Other Procedural Issues

Report No. AUC-00-80-B (Auction No. 80)

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I. GENERAL INFORMATION

A. Introduction

This public notice announces the procedures and minimum opening bid for the upcoming auction of a construction permit for Channel 52 at Blanco, Texas (“Auction No. 80”). On May 12, 2000, the Mass Media Bureau (“MMB”) and the Wireless Telecommunications Bureau (“WTB”) (collectively, the “Bureaus”) released the *Auction No. 80 Comment Public Notice*,¹ seeking comment on the establishment of reserve price and/or minimum opening bid for Auction No. 80, in accordance with the Balanced Budget Act of 1997.² In addition, the Bureaus sought comment on a number of procedures to be used in Auction No. 80. The Bureaus received no comments in response to the *Auction No. 80 Comment Public Notice*.

1. Construction Permit to Be Auctioned

The construction permit available in Auction No. 80 is for a new analog, full-power, television station on Channel 52 at Blanco, Texas. This construction permit is the subject of pending, mutually exclusive short-form applications (FCC Form 175) and participation in this auction is limited to the applicants identified in Attachment A. The minimum opening bid and upfront payment for this construction permit are also included on Attachment A.

B. Rules and Disclaimers

1. Relevant Authority

Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to broadcast auctions, contained in Title 47, Part 73 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions contained in this Public Notice, the *Auction No. 80 Comment Public Notice*, the *Broadcast First Report and Order*,³ the *Broadcast Reconsideration Order*,⁴ and the *New Entrant Bidding Credit*

¹ See Auction of Construction Permit For New Television Station Channel 52 at Blanco, Texas Scheduled for July 12, 2000; Comment Sought on Reserve Price or Minimum Opening Bid and Other Auction Procedural Issues, *Public Notice*, DA 00-1069 (rel. May 12, 2000) (“*Auction No. 80 Comment Public Notice*”).

² Section 3002(a), Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 (1997) (“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 47 C.F.R. § 1.2104 (c) and (d).

³ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, *First Report and Order*, 13 FCC Rcd 15920 (1998) (“*Broadcast First Report and Order*”).

⁴ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 14 FCC Rcd 8724 (1999) (“*Broadcast Reconsideration Order*”).

Reconsideration Order.⁵ Potential bidders must also familiarize themselves with Part 1, Subpart Q of the Commission's rules concerning competitive bidding proceedings.⁶

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 98-194 for the *Broadcast First Report and Order* and FCC 99-74 for the *Broadcast Reconsideration Order*).

2. Prohibition of Collusion

Bidders are reminded that Section 1.2105(c) of the Commission's rules prohibits short-form applicants from communicating with each other during the auction about bids, bidding strategies, or settlements unless they have identified each other as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii).⁷ For further details regarding collusion, refer to the *Auction Filing Window Public Notice*, released December 17, 1999.⁸ For Auction No. 80, this prohibition became effective at the short-form application deadline (February 1, 2000) and will end on the down payment due date after the auction (to be announced in a future public notice). Applicants certified compliance with Section 1.2105(c) when they signed their short-form applications. 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.⁹

Bidders in Auction No. 80 are encouraged not to use the same 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 bidders he/she 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.

⁵ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 14 FCC Rcd 12,541 (1999) (“*New Entrant Bidding Credit Reconsideration Order*”).

⁶ See Part 1, Subpart Q of Title 47 of the Code of Federal Regulations.

⁷ See 47 C.F.R. § 1.2105(c).

⁸ See Auction Filing Window For New Television Station Channel 52 at Blanco, Texas, *Public Notice*, DA 99-2824 (rel. December 17, 1999) (“*Auction Filing Window Public Notice*”).

⁹ See *Nevada Wireless*, 13 FCC Rcd. at 11978.

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.¹⁰ 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 Attachment E.

3. Due Diligence

Potential bidders are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the Blanco television facility. **The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC permittee in the broadcast service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does a FCC construction permit or license constitute a guarantee of business success.** Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 80 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 80 are strongly encouraged to continue such research during the auction.

Potential bidders should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service.¹¹ In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service.¹² In the *Class A Report and Order*, the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations.¹³ Given the Commission's ruling in the *Class A Report and Order*, the winning bidder in the auction for the new full power television station on Channel 52 at Blanco, Texas, upon submission of its long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate a full power television station on Channel 52 at Blanco, Texas. Information about the identity and location of Class A television stations is available from the Mass Media Bureau's Consolidated Database System (CDBS) (public access available at: <http://www.fcc.gov/mmb>) and on the Mass Media Bureau's Class A television web page: <http://www.fcc.gov/mmb/vsd/files/classa.html>.

¹⁰ See 47 C.F.R. § 1.65.

¹¹ Pub. L. No. 106-113, 113 Stat. 1501 (1999), codified at 47 U.S.C. § 336(f).

¹² See Establishment of a Class A Television Service, MM Docket No. 00-10, *Report and Order*, FCC 00-115 (rel. April 4, 2000) ("*Class A Report and Order*").

¹³ *Id.* at ¶¶ 37-38.

4. Bidder Alerts

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 80 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 Information Center at (800) 876-7060. Consumers who have concerns about specific proposals may also call the FCC National Call Center at (888) CALL-FCC ((888) 225-5322).

5. National Environmental Policy Act (NEPA) Requirements

The permittee must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a broadcast antenna facility is a federal action and the permittee must comply with the Commission's NEPA rules for each such facility. See 47 C.F.R. §§1.1305-1.1319. The Commission's NEPA rules require that, among other things, the permittee 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 permittee 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 permittee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

C. Auction Specifics

1. Auction Date

Auction No. 80 will begin on July 12, 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 will be conducted on each business day until bidding has stopped on the construction permit.

2. Auction Title

Auction No. 80 — Blanco, Texas Broadcast

3. Bidding Methodology

The bidding methodology for Auction No. 80 will be a multiple-round, ascending auction. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

4. Pre-Auction Dates and Deadlines

| | |
|--|-----------------------------|
| Auction Seminar | June 16, 2000 |
| Upfront Payments (via wire transfer) | June 26, 2000; 6:00 p.m. ET |
| Orders for Remote Bidding Software | June 26, 2000; 5:30 p.m. ET |
| Mock Auction | July 10, 2000 |
| Auction Begins | July 12, 2000 |

5. Requirements for Participation

Those wishing to participate in the auction must:

- Be listed on Attachment A of this public notice.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 pm ET, June 26, 2000.
- Comply with all provisions outlined in this public notice.

6. General Contact Information

| | |
|--------------------------------------|--|
| GENERAL AUCTION INFORMATION | FCC Auctions Hotline |
| General Auction Questions | (888) 225-5322, Press Option #2 |
| Seminar Registration | or direct (717) 338-2888 |
| Orders for Remote Bidding Software | Hours of service: 8 a.m. – 5:30 p.m. ET |
| AUCTION LEGAL INFORMATION | Auctions and Industry Analysis Division |
| Auction Rules, Policies, Regulations | Legal Branch (202) 418-0660 |
| LICENSING INFORMATION | Video Services Division |
| Rules, Policies, Regulations | (202) 418-1600 |
| Licensing Issues | |
| Incumbency/Protection Issues | |
| TECHNICAL SUPPORT | FCC Auctions Technical Support Hotline |
| Electronic Filing Assistance | (202) 414-1250 (Voice), |
| Software Downloading | (202) 414-1255 (TTY) |
| | Hours of service: 8:00 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>
<ftp://ftp.fcc.gov>

II. SHORT-FORM (FCC FORM 175) APPLICATION REQUIREMENTS**A. Minor Modifications to Short-Form Applications (FCC Form 175)**

Applicants may make only minor changes to their short-form applications. Applicants are not permitted to make major modifications to their applications (*e.g.*, 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), fax number, and revision of exhibits. Applicants should notify the Commission of these changes in a letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Suite 4-A760, Washington, DC 20554. A separate copy of the letter should be mailed to Kenneth Burnley, Auctions and Industry Analysis Division. After the Bureau's release of a public notice listing the qualified bidders in Auction No. 80, applicants should make these changes to their short-form applications on-line. Questions about other changes should be directed to Kenneth Burnley at (202) 418-0660.

B. 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 short-form 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 short-form application.

C. Electronic Review of Short –Form Applications (FCC Form 175)

The short-form electronic review system may be used to review and print applicants' short-form application information. Applicants may also view other applicants' completed short-form applications. There is no fee for accessing this system. Instructions for electronically reviewing short-form applications are discussed in the *Auction Filing Window Public Notice*.¹⁴

III. PRE-AUCTION PROCEDURES

A. Auction Seminar

On June 16, 2000, the FCC will sponsor a free seminar for Auction No. 80 at the Federal Communications Commission, located at 445 12th Street, S.W. (Room 2-B516), Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the broadcast 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 included as Attachment B of this public notice and submit it by Wednesday, June 14, 2000. Registrations are accepted on a first-come, first-served basis.

B. Upfront Payments -- Due June 26, 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). FCC Form 159 must be completed manually and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on June 26, 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. 80 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 June 26, 2000 deadline will result in dismissal of the application and disqualification from participation in the auction.

1. Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on June 26, 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

¹⁴ See Auction Filing Window For New Television Station Channel 52 at Blanco, Texas, *Public Notice*, DA 99-2824 (rel. December 17, 1999) (“*Auction Filing Window Public Notice*”).

information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 910-1211
OBI Field: (Skip one space between each information item)
"AUCTIONPAY"
TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, block 26)
PAYMENT TYPE CODE (enter "A80U")
FCC CODE 1 (same as FCC Form 159, block 23A: "80")
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. # 358435

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 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. 80." **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 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 C to this public notice. The FCC Form 159 must be completed manually and 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 WTB the authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned.¹⁵ In the *Auction No. 80 Comment Public Notice*, the Bureau proposed an upfront payment of \$420,000.¹⁶ No comments were received concerning this upfront payment. We therefore adopt our proposed upfront payment amount for Auction No. 80.

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

The Commission will use wire transfers for all Auction No. 80 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants must fax the Wire

¹⁵ See 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). See also *Broadcast First Report and Order*, 13 FCC Rcd at 15967-68 ¶ 127-128.

¹⁶ See *Auction No. 80 Comment Public Notice* at 2.

Transfer Instructions by June 26, 2000, to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418-2843. Should the payer fail to submit the requested information, the refund will be returned to the original payer by check. 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 below in Section V.D.

C. 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 short-form applications have been accepted for filing and that have timely submitted an upfront payment.

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 short-form applications.

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, July 7, 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 Street, S.W., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's short-form application, 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.

D. Remote Electronic Bidding Software

Qualified bidders are allowed to bid electronically or by telephone. 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 Monday, June 26, 2000. For security purposes, the software is only mailed to the contact person at the contact address listed on the short-form application. Please note that auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 80. 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, an FCC Bidding Preference/Remote Software Order Form is included as Attachment D in this public notice.

E. Mock Auction

All qualified bidders will be eligible to participate in a mock auction on Monday, July 10, 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. 80 will begin on Wednesday, July 12, 2000. 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.

A. Auction Structure

1. Multiple Round, Ascending Auction

In the *Auction No. 80 Comment Public Notice*, we proposed to award the construction permit for Channel 52 at Blanco, Texas in a multiple-round, ascending auction.¹⁷ We received no comments on this issue. We therefore conclude that it is operationally feasible and appropriate to auction the construction permit for Channel 52 at Blanco, Texas in a multiple-round, ascending auction. Unless otherwise announced, bids will be accepted on the construction permit in successive rounds of bidding.

2. Maximum Eligibility and Activity Rules

In the *Auction No. 80 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the eligibility (as measured in bidding units) for participation in Auction No. 80.¹⁸ We received no comments on this issue.

For Auction No. 80, we will adopt our proposal that the amount of the upfront payment submitted by a bidder determines the eligibility (in bidding units) for participation in Auction No. 80. Note again that the upfront payment is a refundable deposit made by each bidder to determine and establish eligibility to bid on the construction permit. The upfront payment does not define the total dollars a bidder may bid on the construction permit.

¹⁷ *Auction No. 80 Comment Public Notice* at 2.

¹⁸ *Id.*

In addition, we received no comments on our proposal for a single stage auction. Therefore, in order to ensure that the auction closes within a reasonable period of time, we adopt our proposal with the following activity requirements: a bidder must either place a valid bid and/or be the standing high bidder during each round of the auction rather than wait until the end before participating. A bidder is required to be active on 100 percent of their bidding eligibility. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's bidding eligibility, thus eliminating the bidder from the auction.

3. Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 80 Comment Public Notice*, we proposed that each bidder in the auction would be provided three activity rule waivers that may be used in any round during the course of the auction.¹⁹ We received no comments on this issue.

Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided three 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. We are satisfied that by providing three waivers over the course of the auction we will offer 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 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. If there are no activity rule waivers available, the bidder's eligibility will be reduced, eliminating them from the auction.

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 will not keep the auction open.

4. Auction Stopping Rules

For Auction No. 80, the Bureaus proposed to employ a stopping rule.²⁰ The Bureaus also sought comment on a modified version of the stopping rule. The modified version of the stopping rule would close the auction after the first round in which no bidder submits a proactive waiver or a new bid on the construction permit when it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on the construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

The Bureaus further proposed retaining the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted. In addition, we proposed that the Bureaus reserve the right to declare that the auction will end after a specified number of additional rounds

¹⁹ *Id.* at 3.

²⁰ *Id.* at 6.

(“special stopping rule”). 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.²¹ We received no comments on these issues.

We adopt our proposals concerning the stopping rule. Adoption of these rules, we believe, is most appropriate for Auction No. 80 because our experience in prior auctions demonstrates that the stopping rule balances the interests of administrative efficiency and maximum bidder participation.

Under the stopping rule, bidding will remain open on the construction permit until bidding stops. The auction will close for the construction permit when one round passes during which no bidder submits a new acceptable bid or applies a proactive waiver. After the first such round, bidding will close on the construction permit. In addition, the Bureaus retain the discretion to close the auction after the first round in which no bidder submits a proactive waiver or a new bid on the construction permit on which it is not the standing high bidder. Under this modified stopping rule, absent any other bidding activity, a bidder placing a new bid on the construction permit for which it is the standing high bidder would not keep the auction open under this stopping rule procedure.

The Bureaus also retain the discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted 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).

Further, in their discretion, the Bureaus reserve the right to invoke the “special stopping rule.” Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day.

5. Auction Delay, Suspension, or Cancellation

In the *Auction No. 80 Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureaus 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.²²

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 Bureaus 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 Bureaus, in their 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 Bureaus to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations

²¹ *Id.*

²² *Id.* at 3.

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 with the registration mailings. The round structure 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 result formats and locations will be included in a future public notice listing the qualified bidders of Auction No. 80.

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 of 1997 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 or construction permits 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.²³ Consistent with this mandate, the Commission directed the WTB to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.²⁴ Among other factors, the WTB 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.²⁵ The Commission concluded that the WTB should have the discretion to employ either or both of these mechanisms for future auctions.²⁶

In the *Auction No. 80 Comment Public Notice*, the Bureau proposed to establish a minimum opening bid for Auction No. 80 of \$420,000.²⁷ Specifically, for Auction No. 80, the Commission proposed calculating the minimum opening bid based on the potential value of the spectrum, including the type of service, market size, industry cash flow data and recent broadcast transactions.

No comments were received, therefore we will adopt the minimum opening bid of \$420,000,

²³ Budget Act, *see* note 2, *supra*.

²⁴ *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. at 141, 455-456 (1998) ("*Part 1 Third Report and Order*").

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Auction No. 80 Comment Public Notice* at 4-5.

as proposed, for Auction No. 80. Congress has enacted a presumption that unless the Commission determines otherwise, minimum opening bids or reserve prices are in the public interest.²⁸ Based on our experience in using minimum opening bids in other auctions, we believe that minimum opening bids speed the course of the auction and ensure that valuable assets are not sold for nominal prices, without unduly interfering with the efficient assignment of construction permits.²⁹

3. Bid Increments and Minimum Accepted Bids

In the *Auction No. 80 Comment Public Notice*, we proposed to apply a minimum bid increment of 10 percent.³⁰ We further proposed to retain the discretion to change the minimum bid increment if circumstances so dictate.³¹ We received no comments on this issue.

We adopt the proposal contained in the *Auction No. 80 Comment Public Notice*. Once there is a standing high bid on the construction permit, there will be a bid increment associated with that bid indicating the minimum amount by which the bid on that permit can be raised. For Auction No. 80, we will use a flat, across-the-board increment of 10 percent to calculate the minimum bid increment. The Bureaus retain the discretion to compute the minimum bid increment through other methodologies if it determines circumstances so dictate. Advanced notice of the Bureaus' decision to do so will be announced via the Automated Auction System.

4. High Bids

Each bid will be date- and time-stamped when it is entered into the Automated Auction 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, a bid submitted by a bidder earlier in a round will have an earlier date and time stamp than a bid submitted later in a round.

5. Bidding

During a bidding round, a bidder may submit a bid, subject to its eligibility, as well as, remove a bid placed in the same bidding round. If a bidder submits multiple bids for the construction permit 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

²⁸ Section 3002(F) of the Budget 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."

²⁹ See 47 U.S.C. 309(j)(3)(C).

³⁰ *Auction No. 80 Comment Public Notice* at 5.

³¹ *Id.*

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. 80.

When utilizing the bidding software, each bidder is required to login 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. 80 allows bidders to place a multiple increment bid, which will let bidders increase a high bid 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 the construction permit. The bidding software will display the bid increment.

To place a bid on the construction permit, 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.

In the first round of the auction, bidders will be limited to bidding only the minimum acceptable bid. In this case no increment exists for the construction permit, 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.

6. Bid Removal and Bid Withdrawal

In the *Auction No. 80 Comment Public Notice*, we proposed bid removal and bid withdrawal rules.³² With respect to bid withdrawals, we proposed that bidders would not be permitted to withdrawal bids in any round. We received no comments on this issue. Therefore the Bureaus adopt their proposal and will not permit bidders to withdrawal bids in any rounds during the auction.

Procedures. Before the close of a bidding round, a bidder has the option of removing a bid placed in that round. By using the “remove bid” function in the software, a bidder may effectively “unsubmit” a bid placed within that round. 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. Once a round closes, a bidder may no longer remove a bid. No comments were received. Therefore, we will adopt these procedures for Auction No. 80.

³²

Auction No. 80 Comment Public Notice at 5.

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, current high bid, new minimum accepted bid, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and FCC account numbers for Auction No. 80 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.

8. Auction Announcements

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

9. Maintaining the Accuracy of Short-Form (FCC Form 175) Information

As noted in Part II.A., 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 Kenneth Burnley, Auctions and Industry Analysis Division, 4-B524, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Applicants should make these changes to their short-form applications on-line after the Bureau's release of a public notice listing qualified bidders in Auction No. 80. Questions about other changes should be directed to Kenneth Burnley at (202) 418-0660.

V. POST-AUCTION PROCEDURES

A. Down Payments

After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bid and bidder for the construction permit.

Within ten business days after release of the auction closing public notice, the winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the United States Government to 20 percent of its net winning bid (actual bid less any applicable bidding credit). *See* 47 C.F.R. § 1.2107(b).

B. Long-Form Application

Within ten business days after release of the auction closing public notice, the winning bidder

must electronically submit a properly completed long-form application and required exhibits for the construction permit won through the auction. If the winning bidder is claiming new entrant status it must include an exhibit demonstrating their eligibility for the bidding credit. *See* 47 C.F.R. § 1.2112(b). Further filing instructions will be provided to the auction winner at the close of the auction.

C. Default and Disqualification

If the high bidder 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) it 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 construction permit 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 or construction permits 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 the winning bidder for the construction permit will be entitled to a refund of their upfront payment after the conclusion of the auction.

Bidders that drop out of the auction completely may be eligible for a refund of their upfront payment before the close of the auction. Bidders that have exhausted all of their activity rule waivers and have no remaining bidding eligibility must submit a written refund request which includes wire transfer instructions and a Taxpayer Identification Number (“TIN”), 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 can fax their request to the Auctions Accounting Group at (202) 418-2843. Once the request 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 Tim Dates or Gail Glasser at (202) 418-1995.

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

Auctions and Industry Analysis Division: Kenneth Burnley, Attorney, Auctions Legal Branch at (202) 418-0660; Lisa Stover, Project Manager or Bob Reagle, Analyst, Auctions Operations Branch at (717) 338-2888.

Audio Services Division: Shaun Maher at (202) 418-2324.

- FCC -

VI. ATTACHMENT A

Applicants for Primary Service Television Construction Permit (Channel 52) in Blanco, Texas

| MX Group | Location | Channel | Bidding Units | Upfront Payment | Minimum Opening Bid | Applicants | FCC Account No. |
|-----------------|-----------------|----------------|----------------------|------------------------|----------------------------|--------------------------------------|------------------------|
| PST1 | Blanco, Texas | 52 | 420,000 | \$420,000.00 | \$420,000.00 | Aaron Communications, L.P. | 2000095612 |
| | | | | | | Alliance Trust | 2000114840 |
| | | | | | | BK Radio | 2000003451 |
| | | | | | | Blanco Television, LLC | 2000180847 |
| | | | | | | Blue Mountain Communications, Inc. | 2000153547 |
| | | | | | | Channel 52,LLC | 2000162115 |
| | | | | | | Christian Television Media, Inc. | 2000182234 |
| | | | | | | ComCorp Broadcasting, Inc. | 2000112943 |
| | | | | | | Council Tree Communications, L.L.C. | 2000183246 |
| | | | | | | Douglas Johnson | 2000145457 |
| | | | | | | Elgin FM Limited Partnership | 2000144046 |
| | | | | | | George S. Flinn, Jr. | 2000162318 |
| | | | | | | James L. Oyster | 2000090206 |
| | | | | | | KT Broadcasting, Inc. | 2000193749 |
| | | | | | | Mountain Communications, Inc. | 2000143537 |
| | | | | | | Pappas Telecasting of El Paso-Juarez | 2000112016 |
| | | | | | | Pegasus Broadcast Television, Inc. | 2000112618 |
| | | | | | | Post-Newsweek Stations, Inc. | 2000154547 |
| | | | | | | Rodriguez Communications, L.L.C. | 2000155133 |
| | | | | | | S L Communications, Inc. | 2000172606 |
| | | | | | | Star Broadcasting, Inc. | 2000120144 |
| | | | | | | Univision Television Group, Inc. | 2000123701 |
| | | | | | | Venture Technologies Group LLC | 2000142650 |
| | | | | | | WF Broadcasting, LLC | 2000131115 |

VII. ATTACHMENT B

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 80

The FCC will sponsor a one-day seminar for the Channel 52 Blanco, Texas Auction 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. Additional representatives may attend on a first-come, first-served basis 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, June 16, 2000
Federal Communications Commission
445 12th Street S.W. (Room 2-B516)
Washington, DC 20554

Registration 9:30 a.m. - 10:00 a.m.
Seminar 10:00 a.m. - 2 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 by mail or fax to be received no later than

Wednesday, June 14, 2000, to:

FCC Auction 80
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. 80 Seminar, scheduled for **Friday, June 16, 2000.**

Name of attendee: _____

Name of attendee: _____

Company name: _____

Phone: _____ Fax: _____

VIII. ATTACHMENT C

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. 80. 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 "358435" |
| 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 "A80U" |
| 21A | Quantity - Enter the number "1" |
| 22A | Amount Due - Enter the total upfront payment due. |
| 23A | FCC Code 1 - Enter the number "80" (indicating Auction No. 80). |

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 the down payment and final payment will be included in a post-auction public notice announcing the winning bidder.

IX. ATTACHMENT D

**FCC BIDDING PREFERENCE/
REMOTE SOFTWARE ORDER FORM
Auction No. 80**

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 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 #80.) 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 **Monday, June 26, 2000**.

FCC BIDDING PREFERENCE (Auction No. 80)
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 _____

X. ATTACHMENT E

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. Ciamporcero 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.