



PUBLIC NOTICE

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Wireless Telecommunications Bureau Announces Availability of Bidding Credits For Providing Wireless Services To Qualifying Tribal Lands

*Tribal Land Bidding Credits To Be Available Beginning In Auction No. 36
(800 MHz Specialized Mobile Radio (SMR) Lower 80 Channels)
And In Future Auctions*

In its *Report and Order and Further Notice of Proposed Rule Making* in WT Docket 99-266, adopted June 8, 2000, the Commission established a bidding credit program for future auctions to provide incentives to wireless telecommunications carriers to serve tribal lands.¹ Under this program, a winning bidder who commits to use its license(s) to deploy facilities and provide services to federally-recognized tribal lands that are either unserved by any telecommunications carrier or have a telephone service penetration rate equal to or below 70 percent is eligible to receive a tribal land bidding credit.

The rules adopted in the order take effect on October 2, 2000, and will apply to all auctions that commence after that date, beginning with the 800 MHz Specialized Mobile Radio (SMR) Lower 80 Channel Auction (Auction No. 36, scheduled to begin on November 1, 2000). The bidding credit program will also be available to qualifying winning bidders in the C & F Block Broadband PCS Auction (Auction No. 35, scheduled to commence December 12, 2000) and the 700 MHz Band Auction (Auction No. 31, scheduled to begin March 6, 2001).

This Public Notice provides basic information for future applicants on requesting and qualifying for a tribal land bidding credit, as well as the performance requirements applicable to the winning bidder when a tribal land bidding credit is awarded. Bidders should note that the tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify, including small business bidding credits.

Bidding credit for serving qualifying tribal land. To apply for the tribal land bidding credit, a winning bidder must indicate on its long-form application (FCC Form 601) that it intends to construct facilities and provide service to a qualifying tribal land in the market for which the credit is sought. [**Note:** The winning bidder applies for the tribal land bidding credit after winning the auction unlike the small business credit which is requested prior to the auction.]

¹ Extending Wireless Telecommunications Services to Tribal Lands, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 99-266, 15 FCC Rcd. 11,794 (rel. June 30, 2000).

Qualifying tribal land. For purposes of the tribal land bidding credit, a “qualifying tribal land” means any federally recognized Indian tribe’s reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments, (*see* 25 C.F.R. § 20.1(v)), that has a wireline telephone subscription rate equal to or less than seventy (70) percent based on the most recently available U.S. Census Data.

Certification. To qualify for the bidding credit, a winning bidder that has applied for the credit must amend its Form 601 within ninety (90) days after the filing deadline for long-form applications and provide two certifications. The *first certification* is from the tribal government(s) stating:

- (1) the tribal government authorizes the winning bidder to site facilities and provide service on its tribal land;
- (2) the tribal area to be served by the winning bidder constitutes qualifying tribal land; and
- (3) the tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide service on the qualifying tribal land.

The *second certification* is from the winning bidder certifying that it will (1) consult with the tribal government regarding the siting of facilities and deployment of service on the tribal land and (2) comply with the Commission’s tribal land bidding credit buildout requirements (see below).

Following the filing of the amended Form 601, the Commission will calculate the amount of bidding credit to be awarded using the bidding credit formula and credit limits described below. The Commission will announce the award of a tribal land bidding credit in the “Prepared To Grant Public Notice”.² In addition, FCC licenses that are awarded to recipients of tribal land bidding credits will be expressly conditioned to reflect the award of the credit and the tribal land buildout requirement.

However, if the winning bidder does not amend its application to provide the certifications within the 90-day period, the Commission will not award a tribal land bidding credit and the applicant will be required to pay the *full* net high bid amount for the license.

Bidding credit formula. Subject to the applicable credit limit set forth below, the tribal land bidding credit shall equal \$300,000 for the first 518 square kilometers (200 square miles) of qualifying tribal land, and \$1500 for each additional 2.590 square kilometers (square mile) of qualifying tribal land above 518 square kilometers (200 square miles).

Bidding Credit Limit. If the high gross bid is equal to or less than \$1,000,000, the maximum tribal land bidding credit calculated above shall not exceed fifty (50) percent of the high gross bid. If the high gross bid is greater than \$1,000,000, but equal to or less than \$2,000,000, the maximum tribal land bidding credit calculated above shall not exceed \$500,000 dollars. If the high gross bid is greater than \$2,000,000 dollars, the maximum tribal land bidding credit calculated above shall not exceed twenty-five (25) percent of the high gross bid.

Application of credit. The tribal land bidding credit amount, if approved by the Commission, will be subtracted from the final net bid amount. This calculation takes place after the Commission receives and reviews the required certifications described above. The tribal land bidding credit will not be used in

² The “Prepared to Grant Public Notice” also lists those applications that will be granted licenses upon full and timely payment of the balance of their net winning bids.

any post-auction payment calculation except the calculation of the final payment for the license. Thus, the tribal land bidding credit will not be used in the calculation of the down payment, a default payment, or a withdrawal payment.

Post-construction certification. A recipient of a tribal land bidding credit shall file a performance certification within fifteen (15) days of the third anniversary of the initial grant of its license. The recipient must certify that it has constructed and is operating a system capable of serving seventy-five (75) percent of the population of *each* qualifying tribal land for which the bidding credit was awarded.

Failure To Perform. If a recipient of a tribal land bidding credit fails to provide the post-construction certification or fails to comply with the buildout requirements as outlined above, it shall repay the tribal land bidding credit amount in its entirety, plus interest. Interest will begin to accrue from the license grant date and will be based on the rate for ten-year U.S. Treasury obligations applicable on the date the license was granted. Such payment shall be made within thirty (30) days of the third anniversary of the initial grant of its license. Failure to repay the tribal land bidding credit will result in automatic cancellation of the license.

For further information, *See* the Commission's *Report and Order and Further Notice of Proposed Rule Making*, WT Docket NO. 99-266, 47 C.F. R. §§ 1.2107(e) and 1.2110(e) and <http://www.fcc.gov/Bureaus/Wireless/Orders/2000/fcc00209.doc>,

Interested parties may also contact Davida Grant of the Commercial Wireless Division at 202-418-7050 or dgrant@fcc.gov.