

## ATTACHMENT D

### INSTRUCTIONS FOR COMPLETING FCC FORM 601

**In completing the FCC Form 601, applicants are strongly encouraged to use the format below in submitting the information required by our rules as exhibits. Following this format will help expedite the processing of the FCC Form 601 and minimize the need for requesting missing information. Applicants seeking tribal lands bidding credits must comply with the instructions contained in Part IV of this Attachment.**

#### I. FCC FORM 601: GENERAL REQUIREMENTS

Applicants bear full responsibility for submission of timely and complete FCC Form 601 applications. Applicants should read the instructions on the FCC Form 601 carefully and should consult the rules to ensure that, aside from the materials described below, all the information that is required under our rules is included with their FCC Form 601 applications. **Incomplete or defective applications may be returned to the applicant.** See 47 C.F.R. § 1.934(a), (d); see also 47 C.F.R. § 1.933(b). Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application. See 47 C.F.R. § 1.65.

An applicant that fails to submit the required FCC Form 601 application by **6:00 p.m. ET on February 12, 2001**, and fails to establish good cause for any late-filed submissions, shall be deemed to have defaulted and will be subject to the default payments set forth in section 1.2104(g) of the Commission's rules. See 47 C.F.R. §§ 1.2104(g), 1.2107(c).

**Number of Forms To Be Filed.** Applicants applying for multiple licenses are not required to submit a separate application for each market if **all** filing requirements associated with the application are identical **except** for the market designator and market name. Under these circumstances, applicants may submit *one* FCC Form 601 (including all required schedules, attachments, and exhibits). Applicants seeking a tribal lands bidding credit for one or more markets are encouraged to submit two applications. One application would include markets in which the applicant intends to apply for a tribal lands bidding credit. The other application would include those markets in which the applicant is not seeking a tribal lands bidding credit.

#### II. FILING FCC FORM 601 ELECTRONICALLY

- To reach the ULS Online Filing Screen, establish a direct dial-up connection to the Commission's Universal Licensing System (ULS) by pointing your web browser to ***http://wtbwww05.fcc.gov*** and selecting the ULS Filing button. (Follow the instructions set forth in Attachment F to this Public Notice on accessing ULS through a direct dial-up connection).

You may also connect to the ULS Online Filing Screen through the Internet at ***http://www.fcc.gov/wtb/uls***. Select the ULS Filing button from this page.

**Note:** We recommend that you use Netscape Communicator 4.73 (Internet web browser software) to electronically register and file FCC Form 601 through ULS. You can download Netscape Communicator free of charge by accessing the Netscape download site at ***http://home.netscape.com/download/***.

- At the ULS Online Filing Screen, enter the applicant’s Taxpayer Identification Number (TIN), Subgroup Identification Number (SGIN) if one was selected/assigned at TIN registration, and Password. Then click on “Continue.” (See Attachment E for instructions on registering your TIN).

**Note:** The TIN provided must be the same one used to identify the applicant when filing Form 175. Contact Technical Support at (202) 414-1250 if you have problems accessing ULS.

- Click on the “Select New Filing” button to begin filing your application.
- Select Application Purpose “New” from the drop-down list and click on “Continue.”
- Select Auction ID “35 – PCS Broadband” from the Auction ID drop-down list and click on “Continue.”
- Supply the information requested by the Form 601.
- If you plan to file a request for waiver or exception to the Commission’s Rules, select “Yes” for the third question on this page.
- If the TIN of the Real-Party-in-Interest to the application differs from the TIN used to access ULS for the application, you must register the Real-Party-in-Interest’s TIN prior to submitting the application. You will not be able to submit the application if you supply an unregistered TIN for the Real-Party-in-Interest.
- After supplying all the requested information, fill in your signature at the bottom of the page and click on “Continue.”
- The following screen lists all of the markets won by the applicant at the auction. Select the market(s) you want to apply for in this application by clicking on the box to the right of the market name. If you intend to apply for tribal lands bidding credits, *see infra* Part IV.
- After the market(s) have been selected, click on the “Attachments” button and upload the required attachments as described *infra*. Be sure to use the standard attachment types and file descriptions set forth herein.
- When finished uploading attachments, close the Attachment window. After uploading each of the required attachments, click on the “Continue” button. At this point, you can either “Print Preview” your application, or “Submit” it to the Commission.
- ULS will assign a file number to the application. If you wish to change anything on the submitted application **during** the filing window, access the ULS Online Filing Screen and enter your TIN, SGIN, and Password. On the next screen, click on the file number of the desired application in Complete status.

If you wish to change anything **after** the filing deadline, you may enter your TIN, SGIN, and Password on the Online Filing Screen, select application purpose Amendment, and select the file number of the application you wish to modify.

### III. ORGANIZATION OF APPLICATION EXHIBITS

**Main Form-Related Exhibits.** Any exhibits to be attached to an application in response to a question on the FCC Form 601 Main Form or on Schedule B should be identified as specified in the instructions to the FCC Form 601. Applicants should use the Attachment screen provided within the electronic filing software to submit these exhibits as uploaded files and should select the appropriate attachment type. The electronic filing software will accept a variety of file formats including Word, Word Perfect, Excel, Lotus, and ASCII text. See online help for a full list of acceptable file formats.

**Rule-Related Exhibits.** Any exhibits to be attached to an application as a result of our rule requirements should be uploaded and identified as follows:

<u>Title</u>	<u>Required From</u>
Exhibit A: Ownership	All Applicants
Exhibit B: Foreign Ownership	If Applicable
Exhibit C: Eligibility	Closed Bidding Applicants
Exhibit D: Designated Entities	Designated Entity Applicants
Exhibit E: Agreements & Other Instruments	Designated Entity and Closed Bidding Applicants, and Other Applicants Where Applicable
Exhibit F: Confidentiality Requests	If Applicable
Exhibit G: Waiver Requests	If Applicable
Exhibit H: Divestiture Plans	If Applicable
Exhibit I: Miscellaneous Information	If Applicable
Exhibit X: Tribal Government Certification	If Applicable <sup>1</sup>
Exhibit Y: Tribal Lands Waiver Requests	If Applicable <sup>2</sup>

As specified in the instructions to the FCC Form 601, each page of each exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit.

Applicants should use the Attachment screen to upload each exhibit file and select the appropriate attachment type. The recommended titles listed above should be entered in the File Description field on the Attachment screen. The electronic filing software will accept a variety of file formats including Word, Word Perfect, Excel, Lotus, and ASCII text. See online help for a full list of acceptable file formats. Applicants are requested not to add password protections to attached files.

#### **EXHIBIT A: OWNERSHIP INFORMATION**

Section 1.2112 of the Commission's rules requires each applicant to make full and complete disclosure with regard to the real party or parties-in-interest and as to all matters required to be

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<sup>1</sup> Applicants applying for markets where they are seeking a tribal lands bidding credit must attach any tribal government certification and waiver exhibits, as applicable, within 90 days of filing their long-form application. See discussion *infra* Part IV. The applicant does not need to include these attachments in applications in which the applicant is not including markets where a tribal land bidding credit is being sought.

<sup>2</sup> See *id.*

disclosed by the application form. *See* 47 C.F.R. § 1.2112(a). To provide this information, applicants should upload a file, select Attachment Type “Ownership” and enter “**Exhibit A: Ownership**” in the File Description field on the Attachment Screen.

Applicants should provide the information concerning the identity of the applicant (*i.e.*, real party- or parties-in-interest), and ownership interests held in the applicant and in investors in the applicant in the format described below. Each application shall be clear and complete in itself without cross-reference to information previously filed. All pages should be clearly labeled to indicate the Exhibit and Item number to which those pages relate.

**Part 1: General Information.** Applicant must indicate the applicant’s form of business organization. In addition,

- If the interest holder is a corporation, provide the name and address of the corporate office and the name and title of an officer, director, or authorized contact.
- If the applicant is a general partnership, provide the name, address, and citizenship of all partners, and the share or interest participation in the partnership.
- If the applicant is a limited partnership, provide the name, address, and citizenship of each limited partner whose interest in the applicant is equal to or greater than ten percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses).
- If the applicant is a limited liability corporation, provide the name, address, and citizenship of each of its members whose interest in the applicant is equal or greater than ten percent.
- If the interest holder is a trust, provide the name and address of the trustee.

**Part 2: Direct Ownership.** Applicant must identify all persons or entities that *directly* hold a ten-percent or more interest in the applicant. *See* 47 C.F.R. § 1.2112(a)(1)-(4). For each ten-percent interest holder listed, applicants should provide the following information:

*Item (1) Name and address:* Identify the name and address of the interest holder. If the interest holder is an individual, provide the name and address of that person, and indicate whether the interest holder is a partner, officer, director, or key manager (*e.g.*, CEO, General Manager) of the applicant.

*Item (2) Principal Business:* Describe the interest holder's principal business and its relationship to the applicant.

*Item (3) Relationship to Other Interest Holder:* Indicate whether the interest holder is related to any other ten percent or greater interest holder by blood or marriage, and provide the name of the related interest holder.

*Item (4) Amount Held:* Specify the amount held (*e.g.*, number of shares of stock and percentage of total ownership) for each type of interest specified.

*Item (5) Type of Interest Held:* Indicate whether the interest held is in the form of stocks, bonds, warrants,

debt instruments, partnership, etc. If interests are held in stock, specify the class of stock and any voting rights associated with the stock. If the interests are held in a partnership, indicate whether the interests are limited or general partnership interests.

*Item (6) Interests Held on Behalf of Others*: If an interest is held in trust, or on behalf of another person or entity, identify the party for whom the interest is held.

**Part 3: Indirect Ownership.** Applicant must identify all persons or entities that *indirectly* hold a ten percent or more interest in the applicant, as determined by successive multiplication of the ownership percentages in each link in the vertical ownership chain, except that if the ownership percentage for any link exceeds fifty percent or represents actual control, it shall be reported as if it were a one hundred percent interest. *See* 47 C.F.R. § 1.2112(a)(5). For each person or entity listed, provide the same information listed in *Items (1)-(6)* above as is requested for direct interests.

#### **Part 4: Other Disclosable Interests and Entities**

- Applicant must list any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in sections 1.2112(a)(1)-(5) of the Commission's rules owns 10 percent or more of stock. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant. *See* 47 C.F.R. § 1.2112(a)(6).
- To comply with 47 C.F.R. § 1.2112(a) which requires the applicant to account for all controlling interests, applicant must list the names, addresses, and citizenship of all persons or entities meeting the definition of "affiliate," as discussed in the *Auction No. 35 Public Notice* at Section II.C.2, to the extent that such entities are not previously included in Parts 1, 2, and 3 of Exhibit A. *See, e.g.,* "C and F Block Broadband PCS Spectrum Auction Scheduled for December 12, 2000; Notice and Filing Requirements for 422 Licenses in the C and F Block Broadband PCS Spectrum Auction; Minimum Opening Bids, Upfront Payments and Other Procedural Issues," *Public Notice*, DA 00-2259, at Sections II.C.2, 4 (rel. Oct. 5, 2000) ("*Auction No. 35 Public Notice*").

**Note:** Applicants may provide information required in Parts 1 through 4 above by scanning and attaching a copy of their current FCC Form 602 (in Adobe PDF) as an exhibit to FCC Form 601. To avoid inadvertent disclosure of Taxpayer Identification Number (TIN) information, applicants submitting a copy of FCC Form 602 as an attachment to FCC Form 601 should not include TIN information on the copy of FCC Form 602 or should block out this information. Applicants are reminded, however, that a current FCC Form 602 must be filed, or be on file, with the Commission's Gettysburg address.

#### **EXHIBIT B: FOREIGN OWNERSHIP**

If the applicant has responded "yes" to either Question 40, 41, 42, 43, or 44 on the FCC Form 601, it must explain the circumstances regarding foreign ownership in the applicant. To provide this information, the applicant should select Attachment Type "Ownership" and enter "**Exhibit B: Foreign Ownership**" in the File Description field on the Attachment Screen. For every direct or indirect foreign owner, applicants should provide the following information:

*Item (1) Percentage of Interest*: Identify each foreign owner's percentage of ownership in the applicant.

*Item (2) Country of Origin and Address*: List each foreign owner's country of origin and principal place

of business.

*Item (3) Public Interest Statement:* Demonstrate how allowing the applicant to hold the requested license is consistent with the Commission's policies pursuant to section 310(b)(4) of the Communications Act of 1934, as amended. In the *Foreign Participation Order*,<sup>3</sup> the Commission stated that there is a presumption that indirect foreign ownership of common carrier radio licenses by entities whose home markets are WTO Members is in the public interest. If more than twenty-five percent of the ownership of an entity that controls a common carrier radio license is attributable to parties whose home markets are non-WTO Members, the Commission will evaluate whether those markets offer effective competitive opportunities to U.S. investors. See *Foreign Participation Order*, 12 FCC Rcd. 23891, 23935-42, 23946, at ¶¶ 97-118, 131.

*Item (4) Petitions for Declaratory Ruling:* As explained in the Commission's *Foreign Participation Order*, licensees must seek the Commission's prior approval before accepting indirect foreign ownership that causes them to exceed Section 310(b)(4)'s twenty-five percent benchmark. See *id.* In keeping with this pre-approval process, auction applicants are required to certify in their short form 175 applications that they are either in compliance with the foreign ownership requirements of Section 310 or that they have filed a request for relief of those requirements that is pending with the Commission. See 47 C.F.R. § 1.2105(a)(2)(v), (vi). Similarly, where foreign ownership is at issue, applicants must indicate in their long form 601 application that they have either received a declaratory ruling that grants them permission to exceed the statutory benchmark of section 310(b)(4) or that they have a request currently pending at the Commission. Applicants are advised that petitions for declaratory ruling to exceed the section 310(b)(4) benchmark must be granted before any license for which the applicant is a high bidder may be granted.

Petitions for a declaratory ruling to exceed the section 310(b)(4) twenty-five-percent statutory benchmark should be addressed to the Secretary, with a copy to the Telecommunications Division of the International Bureau and must be filed in paper form. There is no fee associated with such a filing. Applicants should be aware that, under the relevant precedent, including the Commission's *Foreign Participation Order*, streamlined processing is possible for petitions involving investment from WTO Members that do not raise any other potentially complex foreign ownership issues. The Commission may conclude that a particular petition of this type is not eligible for streamlined processing. If more than twenty-five percent of the ownership of an entity that controls a common carrier radio license is attributable to parties whose home markets are non-WTO Members, such petitions are not eligible for streamlined processing, and these petitioners should contact the Telecommunications Division of the International Bureau to discuss processing of their petitions. Inquiries regarding compliance with Section 310 of the Communications Act and the filing and processing of petitions for declaratory ruling should be directed to Claudia Fox, Chief of the Policy and Facilities Branch, Telecommunications Division, International Bureau, at (202) 418-1460.

**Note:** There is no need to include an Exhibit B if the applicant responded "No" to Questions 40 through 44.

## **EXHIBIT C: ELIGIBILITY**

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<sup>3</sup> Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket No. 97-142, Market Entry and Regulation of Foreign-Affiliated Entities, IB Docket No. 95-22, *Report and Order and Order on Reconsideration*, 12 FCC Rcd. 23891 (1997) ("*Foreign Participation Order*"), *Order on Reconsideration*, FCC 00-339 (rel. Sept. 19, 2000).

Section 24.709 of the Commission's rules requires each applicant to demonstrate that it is eligible to participate as a qualified entrepreneur in the closed bidding auction, either because it qualifies under the general rule set forth in 47 C.F.R. § 24.709(a) or because it qualifies under the grandfather exception set forth in 47 C.F.R. § 24.709(b)(9)(i).

**General Rule:** In order to be eligible to bid for one or more closed licenses, an applicant must attach and label as "**Exhibit C: Eligibility**" a statement demonstrating that the applicant, its controlling interests,<sup>4</sup> its affiliates, and the controlling interests of the affiliates have combined total assets of less than \$500 million and have had combined gross revenues of less than \$125 million in each of the last two years. *See* 47 C.F.R. 24.709(a)(1). The gross revenues and total assets should be considered on a cumulative basis and aggregated for purposes of determining whether the applicant is eligible for closed bidding licenses. *See* 47 C.F.R. § 24.709(a)(2). Applicants that can make this showing qualify as “entrepreneurs” for purposes of C and F block auctions.

**Grandfather Exception:** Applicants that were eligible for and participated in Auction Nos. 5 or 10 may bid on closed C block licenses in any auction that begins on or before March 23, 2001, even if their current total assets and gross revenues exceed the financial caps for auction participation as an entrepreneur. *See* 47 C.F.R. § 24.709(b)(9)(i). This exception does not extend to F block licenses. If an applicant that participated in either of the previous C block auctions applied to bid on any F block licenses, it must still meet the revenue and asset requirements of Section 24.709 and demonstrate in Exhibit C that they have met these requirements.

#### **EXHIBIT D: DESIGNATED ENTITIES**

Pursuant to Commission Rules, small and very small businesses, or consortia thereof, which are the high bidders on open licenses are eligible for bidding credits of fifteen and twenty-five percent, respectively. Small businesses and very small businesses are defined in section 24.720(b) of the Commission’s rules. *See* 47 C.F.R. § 24.720(b). Applicants that are not claiming eligibility for bidding credits do not need to submit Exhibit D. We nonetheless note that we are interested in the status of applicants as minority-owned or women-owned businesses for statistical purposes. *See* 47 U.S.C. § 153 (37); *see also* 47 C.F.R. §§ 24.720(c)(1), 24.720(e).

To demonstrate eligibility for designated entity status, applicants must upload a file, select Attachment Type “Ownership” and enter “**Exhibit D: Designated Entities**” in the File Description field on the Attachment Screen. In the exhibit, applicants should identify the applicant's claimed eligibility status and provide the gross revenues, separately and in the aggregate, for the applicant, the applicant’s controlling interests, the applicant’s affiliates, the affiliate’s controlling interests, and, if a consortium of small businesses, the members of the joint venture, for the most recently completed three calendar or fiscal years preceding the filing of the applicant's FCC Form 175 based on audited financial statements. *See* 47 C.F.R. §§ 24.720(f), 1.2110(b)(1), 1.2112(b)(2)(iii). If the applicant cannot identify its controlling interests, the gross revenues of all interest holders in the applicant, and their affiliates, will be attributable. *See* 47 C.F.R. § 1.2110(c)(2).

If the applicant does not have audited financial statements to document the gross revenues figures

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<sup>4</sup> For information on the controlling interest standard, see 47 C.F.R. § 1.2110(c)(2) and In the Matter of Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rulemaking*, FCC 00-274, at ¶¶ 58-67 (rel. Aug. 14, 2000).

provided, it must provide a certification from its chief financial officer or its equivalent that the gross revenue figures indicated in its FCC Forms 175 and 601 applications are true, full, and accurate, and that the applicant does not have the audited financial statements that are otherwise required under our rules. *See* 47 C.F.R. §§ 24.720(f), (g), 1.2110(n).

**Small Businesses:** Applicants claiming status as a small business must compute gross revenues in accordance with section 24.720(b)(1) of the Commission's rules. *See* 47 C.F.R. § 24.720(b)(1). A small business is an entity that, together with its controlling interests, affiliates, and controlling interests of their affiliates, has average annual gross revenues that are not more than **\$40 million** for the preceding three years. *See id.* Gross revenues for each year for the applicant and each of its affiliates and controlling interests should be separately identified and followed by the computed average total gross revenues over those years. For purposes of determining whether an entity meets **\$40 million** average annual gross revenues size, the gross revenues of the entity, its controlling interests and affiliates, and the controlling interests of the affiliates shall be considered on a cumulative basis and aggregated. *See* 47 C.F.R. §§ 24.720(b)(3), 1.2110(b)(1).

**Very Small Businesses:** Applicants claiming status as a very small business must compute gross revenues in accordance with section 24.720(b)(2) of the Commission's rules. *See* 47 C.F.R. § 24.720(b)(2). A very small business is an entity that, together with its controlling interests, affiliates, and controlling interests of the affiliates, has average annual gross revenues that are not more than **\$15 million** for the preceding three years. *See id.* Gross revenues for each year for the applicant and each of its affiliates and controlling interests should be separately identified and followed by the computed average total gross revenues over those years. For purposes of determining whether an entity meets **\$15 million** average annual gross revenues size, the gross revenues of the entity, its controlling interests and affiliates, and the controlling interests of the affiliates shall be considered on a cumulative basis and aggregated. *See* 47 C.F.R. §§ 24.720(b)(3), 1.2110(b)(1).

**Small Business and Very Small Business Consortia:** Applicants applying as a **small business consortium** or **very small business consortium** as defined in section 24.720(b) must compute and indicate gross revenues as outlined above for **each** small or very small business in the consortium. *See* 47 C.F.R. § 24.720(b)(4), (5). That is, each business entity comprising the small or very small business consortia must qualify and show gross revenues separately. The gross revenues of each small or very small business shall not be aggregated. *See* 47 C.F.R. §§ 24.709(b)(1), 1.2110(b)(3)(i).

#### **EXHIBIT E: AGREEMENTS & OTHER INSTRUMENTS**

All applicants must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint ventures, partnerships or other agreements or arrangements into which the applicant has entered relating to the competitive bidding process prior to the time the bidding was completed. *See* 47 C.F.R. § 1.2107(d).

Applicants claiming designated entity status must list and summarize all agreements and other instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business, a very small business, or a consortium of small or very small businesses under section 24.720(b) the Commission's rules, including the establishment of *de facto* and *de jure* control. *See* 47 C.F.R. §§ 24.709(c)(2)(ii), 1.2112(b)(2)(i). Such agreements and instruments include, but are not limited to, articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, partnership agreements, management agreements,

joint marketing agreements, franchise agreements, and any other relevant agreements including letters of intent, oral or written. *See id.* These applicants must also list and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, rights to hire and fire employees, and to appoint members to boards of directors or management committees. *See* 47 C.F.R. §§ 24.709(c)(2)(iii), 1.2112(b)(2)(ii). Such information must be maintained at the licensee's facilities or by their designated agents for the term of the license in order to enable the Commission to audit designated entity eligibility on an ongoing basis. *See* 47 C.F.R. §§ 24.709(c)(3), 1.2110(i).

**Note:** Pursuant to the requirements of 1.2112(a) and (b), applicants should provide clear and sufficient information to establish their eligibility as an entrepreneur and/or a small business, including the establishment of *de jure* and *de facto* control, as defined in section 1.2110(b) and 1.2110(c) of the Commission's rules.

To comply with these requirements, applicants may either submit the agreements themselves or submit a detailed description of those agreements with proprietary information excluded. Applicants should upload the information in a file, select Attachment Type "Other" and enter "**Exhibit E: Agreements & Other Instruments**" in the File Description field on the Attachment Screen. If applicants choose to submit the agreements, they can redact proprietary information or can seek confidentiality for those documents pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459 (*see* discussion of confidentiality requests under "**Exhibit F: Confidentiality Requests**" below).

#### **EXHIBIT F: CONFIDENTIALITY REQUESTS**

Applicants should be aware that all information required by the Commission's rules 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, and confidentiality may be sought pursuant to 47 C.F.R. § 0.459. Applicants requesting confidential treatment for any information required as a condition to participate in the auction must follow the procedures set out in 47 C.F.R. § 0.459. (Applicants submitting confidentiality requests should be aware that 47 C.F.R. § 0.459 was recently amended to set out more clearly what should be contained in a request that information not be routinely available for public disclosure. *See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order*, GC Docket No. 96-55, FCC 98-184 (rel. Aug. 4, 1998)). Because the required information bears on an applicant's qualifications, the Commission envisions that confidentiality requests will not be routinely granted.

If an applicant has sought confidential treatment of any information, it must attach a statement explaining the request and referencing the particular information for which confidential treatment has been requested. To provide this information, applicants should upload this statement as a file, select Attachment Type "Confidentiality" and enter "**Exhibit F: Confidentiality Requests**" in the File Description field on the Attachment Screen. There is no need to include an Exhibit E stating there is no confidentiality request.

**In addition, applicants must select Attachment Type "Confidentiality" for the particular exhibit for which they are requesting confidential treatment. Otherwise, the attachment will be available for public inspection.**

## **EXHIBIT G: WAIVER REQUESTS**

**NOTE: This part does not apply to tribal lands waiver requests. See *infra* “Exhibit Y: Tribal Lands Waiver Requests,” at D-13.**

In the event a winning bidder wishes to file a request for waiver, all such requests should be filed with the corresponding application. To provide a document describing the waiver request, Applicants should upload this statement as a file, select Attachment Type “Waiver” and enter “**Exhibit G: Waiver Requests**” in the File Description field on the Attachment screen. There is no need to include an Exhibit G stating there are no waiver requests.

Waiver requests filed after the submission of the FCC Form 601 may result in a delay of the processing of the application. If a request for waiver is filed separately from the FCC Form 601, such request must refer to the corresponding application.

## **EXHIBIT H: DIVESTITURE PLANS**

Pursuant to the Commission's spectrum aggregation limit rule, 47 C.F.R. § 20.6, the Commission allows post-auction divestitures. See 47 C.F.R. § 20.6(e). Pursuant to 47 C.F.R. § 24.833, the Commission also provides that any parties sharing a common non-controlling ownership interest who aggregate more PCS spectrum among them than a single entity is entitled to hold will be permitted to divest sufficient properties within 90 days of the license grant to come into compliance with the spectrum aggregation limit. See 47 C.F.R. § 24.833.

If an applicant is unable to certify to compliance with the CMRS spectrum aggregation limit (47 C.F.R. § 20.6), it should attach a signed statement that describes the applicant's efforts to date and future plans to come into compliance with the rules through divestiture of prohibited properties. See 47 C.F.R. § 20.6(e). The statement must indicate that sufficient properties will be divested within 90 days of license grant to meet our requirements. See 47 C.F.R. § 24.833. If divestiture is required, the Commission will condition grant of the application on the licensee coming into compliance with our requirements. For purposes of satisfying the above signature requirement, the typed name of either the applicant or the applicant's authorized representative will suffice. To provide a divestiture plan, applicants should upload a statement as a file, select Attachment Type “Divestiture” and enter “**Exhibit H: Divestiture Plan**” in the File Description field on the Attachment Screen.

## **EXHIBIT I: MISCELLANEOUS INFORMATION**

In the event a winning bidder wishes to provide any additional information which does not fall within any of the other exhibits, these documents or files should be submitted by selecting Attachment Type “Other” and entering “**Exhibit I: Miscellaneous Information**” in the File Description field on the Attachment Screen.

## **IV. INSTRUCTIONS FOR APPLICANTS SEEKING TRIBAL LANDS BIDDING CREDITS**

**Filing the Long-Form Application:** Winning bidders interested in receiving a tribal lands bidding credit must indicate on the long-form application (FCC Form 601, Schedule B) each market for which they will seek the credit by clicking on the appropriate box. See 47 C.F.R. §§ 1.2107(e), 1.2110(f)(3)(i). For a list

of the tribal lands in each Basic Trading Area (BTA), go to the Auction website at <http://www.fcc.gov/wtb/auctions> and click on “Info on Tribal Land Bidding Credit,” and then click on “List of Tribal Lands and Market Cross References.”

Applicants indicating that they intend to serve a qualifying tribal lands in any market(s) within the application will have an additional 90 days after the long-form application deadline within which to secure the necessary certifications from tribal authorities and amend their application to provide the requisite tribal information and documentation. Applicants seeking a tribal lands bidding credit for some, but not all, markets in which they were the high bidder are encouraged to submit two applications. One application will include markets in which the applicant intends to apply for a tribal lands bidding credit. The other application will include those markets in which the applicant is not seeking a tribal lands bidding credit.

If you intend to apply for tribal lands bidding credits, you must do so by the filing deadline for the long-form applications. ULS will not allow applicants to amend their applications to indicate that they intend to seek a tribal lands bidding credit for a market after the filing deadline. However, it is possible for applicants to amend an application to indicate that they no longer intend to seek tribal lands bidding credits in a particular market. Applicants that elect to seek the tribal lands bidding credit when they initially submit the long-form application, but then subsequently decide not to seek the credit, should amend their applications to delete the request for the tribal lands bidding credit.

**Amending the Long Form Application:** Within the 90-day period, the applicant must re-enter ULS to amend the long-form application. *See* 47 C.F.R. § 1.2110(f)(3)(ii).

- Enter the applicant’s Taxpayer Identification Number (TIN), Subgroup Identification Number (SGIN) if one was selected/assigned at TIN registration, and Password into the ULS Filing Screen.
- Select “Amendment” from the drop-down list and click “Continue.”
- Select the file number for the application to be amended.
- The system will display the first page of the long-form 601. If you are requesting a waiver pertaining to the tribal lands information or bidding credit, select “yes” for the third question on this page. Click “continue” when done.
- ULS will present a table consisting of the markets selected by the applicant on the initial long-form application as markets where a tribal lands bidding credit is being sought. ULS will also provide the names of the federally recognized tribal lands in each market and the square kilometers of each tribal lands within that market. The applicant must mark the tribal lands it intends to serve and attach a signed, tribal government certification from each of the federally-recognized tribal governments within 90 days. *See infra* “Exhibit X: Tribal Government Certification,” at D-12.

ULS will automatically calculate the bidding credit amount for each market according to the size (in square kilometers) of the tribal territory within the market, and in compliance with the bidding credit limit. *See* 47 C.F.R. § 1.2110(f)(3)(iii), (iv); *see also* In the Matter of Extending Wireless Telecommunications Services to Tribal Lands, *Report and Order and Further Notice of Proposed Rule Making*, FCC 00-209, 15 FCC Rcd. 11,794, 11,803, at ¶ 25 (“*Tribal Lands Order*”). If multiple spectrum blocks are won in the same market, the winning bid amounts for the spectrum blocks serving tribal lands will be aggregated and the bidding credit limit will be applied against the aggregated amount. *See* Wireless

Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands, *Public Notice*, DA 00-2836, at 2 (rel. Dec. 14, 2000) [hereinafter *Tribal Lands Public Notice*].

If the applicant is seeking a bidding credit in excess of the amount calculated pursuant to Section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to section 1.925 of the Commission's rules. See 47 C.F.R. § 1.925. Each waiver request will be evaluated on a case-by-case basis. See *infra* "Exhibit Y: Tribal Lands Waiver Requests," at D-13.

**Note: For technical reasons, applicants will not be able to amend their long-form applications to specify the tribal lands to be served and to provide tribal government certifications for each market immediately after the end of the filing window. This enhancement to ULS on-line filing will be announced in a separate public notice to be released shortly. This delay does not impact the applicant's ability to indicate their intent to serve tribal lands at the long-form application stage; only to select the specific tribal lands and to file the required certifications.**

#### **EXHIBIT X: TRIBAL GOVERNMENT CERTIFICATION**

Within the 90-day period, the applicant must amend its long-form application to provide the required tribal government certifications for each tribal land identified in the application. See 47 C.F.R. § 1.2110(f)(3)(ii)(A). The tribal government certifications **must be signed** by an officer, allotment owner(s), or corporate officer of the tribal lands, Indian allotment, or Alaska Native land, respectively, and uploaded as an Adobe Portable Document Format (PDF). Each tribal government certification should be attached separately by selecting Attachment Type "Tribal Government Certification" and entering "**Exhibit X: Tribal Government Certification**" in the Description Field on the Attachment Screen. In addition, the Description Field should indicate the market and tribal lands to which the certification pertains (*e.g.* Exhibit X: Tribal Government Certification (BTA363, Aroostock Band)).

A tribal government certification must state that:

1. The tribal area to be served by the winning bidder is a federally-recognized Indian tribe's reservation, Pueblo, Colony, Alaska Native region, or Indian allotment, and has a telephone subscription rate at or below seventy (70) percent;
2. 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; and
3. The tribal government will permit the applicant to site facilities and provide service on its tribal land.

See 47 C.F.R. § 1.2110(f)(3)(ii)(A)(1)-(3); see also *Tribal Lands Public Notice*, DA 00-2836, at 3.

#### **EXHIBIT Y: TRIBAL LANDS WAIVER REQUESTS**

**Request for an additional bidding credit:** If the applicant is seeking a credit in excess of the amount calculated according to Section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to section 1.925 of the Commission’s rules. *See* 47 C.F.R. § 1.925; *see also Tribal Lands Order*, 15 FCC Rcd. at 11,805, at ¶ 29. These waiver requests are subject to the percentage cap on tribal lands bidding credits, and waivers will not be granted in excess of the applicable cap. *See Tribal Lands Order*, 15 FCC Rcd. at 11,805, at ¶ 29. This waiver request must demonstrate that the infrastructure costs exceed the amount of the standard bidding credit as calculated by ULS. *See id.* The applicant will need to supply a detailed showing of the projected infrastructure costs, including a certification by an independent auditor that the estimated costs are reasonable. *See id.* Each tribal land waiver request should be attached separately by selecting Attachment Type “Tribal Lands Waiver Requests” and entering “**Exhibit Y: Tribal Lands Waiver Requests**” in the Description Field on the Attachment Screen. In addition, the Description Field should indicate the market to which the waiver request pertains (*e.g.* Exhibit Y: Tribal Lands Waiver Requests (BTA363)).