



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 01-2418
October 17, 2001

AUCTION OF LICENSES FOR LOWER AND UPPER PAGING BANDS

193 Qualified Bidders

Report No. AUC-01-40-L (Auction No. 40)

In this *Public Notice*, the Federal Communications Commission (“FCC” or “Commission”) identifies 193 applicants found to be qualified to bid in the Lower and Upper Paging Bands Auction (“Auction No. 40”). Auction No. 40 is scheduled to begin on Tuesday, October 30, 2001, and will include 14,000 lower paging bands licenses, as well as 1,514 upper paging bands licenses. In addition, this *Public Notice* contains bidding instructions and other important information regarding Auction No. 40.

Attachment A lists each of the 193 qualified bidders, their upfront payments, and maximum eligibility in bidding units.

Attachment B lists the number of licenses selected on each qualified bidder’s FCC Form 175. In previous auctions, Attachment B has listed the licenses selected in each accepted application. However, due to the large volume of licenses in Auction No. 40, lists of the licenses selected in each accepted application will be provided in electronic format only, available with this public notice at <http://www.fcc.gov/wtb/auctions/40/>.

Waiver Requests: In Attachment B, applications denoted with an asterisk (*) have pending waiver request(s). In no event does acceptance of such applications indicate that the waiver requests have been, or will be, granted. Final resolution of such waiver requests will be released separately and may affect an applicant’s qualifications to participate in Auction No. 40, either entirely or with respect to particular licenses.

Attachment C lists the applicants that submitted FCC Form 175 applications, but did not qualify to bid in this auction.

Attachment D describes how to participate in the mock auction.

Attachment E provides information on “How to Monitor the FCC Auctions On-line,” and round results file formats for use during the auction.

In order to participate effectively in the auction, qualified bidders should again familiarize themselves with the auction rules and other information contained in the *Auction No. 40 Procedures Public Notice* and

subsequent public notices.¹ An electronic copy of this *Public Notice*, and other documents related to Auction No. 40, are available on the Commission's auctions website, <http://www.fcc.gov/wtb/auctions>. The following information provides additional guidance.

Registration. Qualified bidders have been automatically registered for the auction. For security reasons, the Commission will confirm registration through two separate mailings of registration materials. Both mailings will be sent to the bidder's contact person at the contact address identified in the bidder's FCC Form 175. Upon receipt of both mailings, each bidder should be in possession of the following information:

- Bidder Identification Number
- At least two SecurID cards
- SecurID card usage instructions
- Bidding System User Manual
- FCC Telephonic Bidding phone number

Qualified bidders are solely responsible for ensuring the security of their computer systems, security of their registration materials, and that only authorized bidders place bids on their behalf. The FCC assumes no responsibility or liability for these matters.

WARNING: Any unauthorized entity accessing or tampering with an FCC or other government computer will be prosecuted to the full extent of the law.

Any qualified bidder listed in Attachment A of this *Public Notice* that has not received both registration mailings **by noon on Tuesday, October 23, 2001**, must contact the Auctions Hotline directly at (717) 338-2888. Receipt of both registration mailings is critical to participating in both the mock auction and the actual auction event, and it is the responsibility of each qualified bidder to ensure that all registration information has been received.

Registration Material Replacement. Lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC Headquarters, located at 445 12th Street, SW, Washington, DC. Only an authorized bidder, the contact person, or the certifying official, as designated on the applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

¹ See Lower and Upper Paging Bands Auction Scheduled for June 26, 2001; Notice and Filing Requirements; Minimum Opening Bids, Upfront Payments and Other Procedural Issues, *Public Notice*, DA 01-850, 16 FCC Rcd 7657 (2001) ("*Auction No. 40 Procedures Public Notice*"); Due Diligence Announcement for the Upcoming Auction of Licenses for the Lower and Upper Paging Bands Scheduled for June 26, 2001, *Public Notice*, DA 01-1144 (rel. May 7, 2001) ("*First Auction No. 40 Due Diligence Public Notice*"); Lower and Upper Paging Bands Auction Scheduled for October 30, 2001 – Technical Modifications Regarding Acceptable Bids, Bidder Seminar Scheduled for September 5, 2001, *Public Notice*, DA 01-1961 (rel. Aug. 17, 2001) ("*Auction No. 40 Technical Modifications Public Notice*"); Supplemental Due Diligence Announcement for the Upcoming Auction of Licenses for the Lower and Upper Paging Bands Scheduled for October 30, 2001, *Public Notice*, DA 01-2073 (rel. Sept. 4, 2001) ("*Second Auction No. 40 Due Diligence Public Notice*"); Supplemental Due Diligence Announcement for the Upcoming Auction of Licenses for the Lower and Upper Paging Bands Scheduled for October 30, 2001, *Public Notice*, DA 01-2387 (rel. Oct. 22, 2001) ("*Third Auction No. 40 Due Diligence Public Notice*").

If you receive a damaged card(s), the contact person should call Technical Support to request a replacement. Technical Support will verify that the card is unusable, and a new card will be sent by Federal Express along with a self-addressed stamped envelope for returning the damaged card(s).

Bidding. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available. As a contingency, the FCC Wide Area Network, which requires access to a 900 number telephone service, will be available as well.

Qualified bidders are permitted to bid telephonically or electronically. In either case, **each authorized bidder** must have its own Remote Security Access SecurID card, which the FCC will provide at no charge. Each applicant with less than three authorized bidders will be issued two SecurID cards, while applicants with three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the instructions for using them are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction. SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 40. The telephonic bidding phone number will be supplied in the first mailing along with the confidential bidder identification number.

Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

Bidding Contingency Plan. Bidders should develop comprehensive contingency plans that can be quickly implemented if bidders experience difficulty participating in the auction. While the FCC will correct any problems within Commission-controlled facilities, bidders are solely responsible for anticipating and overcoming problems such as bidder technical failures, local telephone service interruptions, adverse local weather conditions, unavailability of authorized bidders, or the loss or breach of confidential security codes.

In their registration materials, all qualified bidders will be supplied with a telephone number for telephonic bidding. Bidders choosing to bid telephonically are required to use this telephone number to place bids. Electronic bidders may use this telephone number as an alternate method of bidding in the event they are unable to submit their bids electronically. In the past, four to five minutes have been necessary to complete a bid submission. **Due to the large number of licenses in Auction No. 40, bidders may require more time to submit their bids than in past auctions. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round.**

Minimum Opening Bids. There will be a minimum opening bid for each license in Auction No. 40, calculated in accordance with the formulas previously announced.² The minimum opening bid amount is subject to reduction at the discretion of the Commission. However, bidders should be aware that the Commission will not entertain requests to lower minimum opening bids. The agency will exercise its discretion, if at all, independent of any communications from bidders.

² *Auction No. 40 Procedures Public Notice* at 28-31, 16 FCC Rcd at 7687-90. For information on the minimum opening bid for each of the licenses offered in Auction No. 40, see *Auction No. 40 Procedures Public Notice*, Attachment A, 16 FCC Rcd at 7698-7731.

Messages and Announcements. The FCC will post pertinent auction information as messages and announcements. Bidders should routinely check for messages and announcements each time they enter the FCC Bidding System, and should read this information carefully.

Bidding Schedule. On Tuesday, October 30, 2001, there will be one round of bidding as follows:

Bidding Period	9:00 a.m.	-	12:00 p.m. ET
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The bidding schedule for Wednesday, October 31, 2001, and continuing until further notice, will be:

Bidding Period	9:00 a.m.	-	11:00 a.m. ET
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Bidding Period	2:00 p.m.	-	4:00 p.m. ET
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Round results will be provided after the close of each round. Due to the large number of licenses and bidders, however, it may take up to one hour before results are posted. The FCC will set the pace of the auction based upon its monitoring of the bidding and its assessment of the auction's progress. All schedule changes will be made by announcement during the course of the auction.

Bidder Questions during the Auction. FCC auction officials and technical support staff will be available during the course of the auction to answer questions from authorized bidders. Bidders should identify themselves as a bidder with time sensitive auction questions when calling any number. Help can be obtained through the following telephone numbers:

FCC Bidder Line (telephonic bidding, auction conduct questions)	Use telephonic bid number supplied in registration mailing
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FCC Technical Support Hotline (all technical questions, software and hardware)	(202) 414-1250
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FCC Auctions Division (legal questions)	(202) 418-0660
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Monitoring Round Results. Attachment E (How to Monitor the FCC Auctions On-Line) of this *Public Notice* provides instructions for reviewing and downloading round results, as well as other material related to Auction No. 40, that will be released by the Commission during the course of the auction.

Amendments to FCC Form 175s. Applicants are responsible for maintaining the accuracy and completeness of information furnished in their FCC Form 175 and exhibits.³ Applicants should amend their applications within ten business days from the occurrence of a reportable change. Filers should make modifications to their FCC Form 175 electronically, and submit a letter briefly summarizing the changes to:

³ 47 C.F.R § 1.65.

Margaret Wiener
Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 4-A760
Washington, DC 20554

A courtesy copy should also be sent to Erik Salovaara, at the same address, Room 4-B457. As described in the Commission's rules, applicants may make only minor corrections to their FCC Form 175 applications (*e.g.*, authorized bidder, fax number).⁴ Major modifications (*e.g.*, changing the markets applied for, changing control of the applicant, changing the certifying official) will not be accepted.⁵

Due Diligence. Bidders are reminded that they should continue to conduct due diligence examinations regarding incumbents and other legal developments with respect to the licenses for which they may bid during the course of the auction.⁶

Mock Auction. The FCC will conduct a mock auction on Thursday, October 25, 2001, which will allow qualified bidders to familiarize themselves with the new internet bidding system. Only qualified bidders will be permitted to participate in the mock auction. Telephonic bidding will also be available. As a contingency, the FCC Wide Area Network, which requires access to a 900 number telephone service, will be available as well. Qualified bidders that wish to place bids telephonically, should use the telephone number supplied in the Auction No. 40 registration materials.

The mock auction will include all Auction No. 40 licenses, and will follow the rules governing the actual auction. The mock auction will be identified as Auction No. 74. The program will assume that each bidder applied for only licenses in the 152/158 MHz unpaired, 929 MHz, and 931 MHz service areas. The program will also assume that each bidder submitted upfront payments of \$1,000,000, which corresponds to 1,000,000 bidding units. The mock auction will simulate the start of the auction and all bidders will be required to be active on 80 percent of their bidding units, or risk having a waiver automatically applied.

Electronic bidders participating in the mock auction are advised to review the Bidding System User Manual provided in the second mailing. Attachment D of this *Public Notice* provides instructions for accessing the FCC Mock Auction site.

The mock auction bidding schedule for Thursday, October 25, 2001, will be:

<u>Round 1 Bidding Period</u>	9:00 a.m. - 11:00 a.m. ET
<u>Round 2 Bidding Period</u>	12:30 p.m. - 1:30 p.m. ET
<u>Round 3 Bidding Period</u>	2:30 p.m. - 3:00 p.m. ET

⁴ 47 C.F.R. § 1.2105(b).

⁵ *Id.*

⁶ *Auction No. 40 Procedures Public Notice* at 7-8, 16 FCC Rcd at 7666-67; *First Auction No. 40 Due Diligence Public Notice*; *Second Auction No. 40 Due Diligence Public Notice*; *Third Auction No. 40 Due Diligence Public Notice*.

OTHER IMPORTANT INFORMATION

Prohibition of Collusion. Bidders are reminded that Section 1.2105(c) of the Commission's Rules prohibits applicants for the same geographic license area 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). For Auction No. 40, this prohibition became effective at the filing deadline of short-form applications on Monday, September 17, 2001, and will end on the post-auction down payment deadline. The post-auction down payment deadline will be announced in a future public notice. If parties had agreed in principle on all material terms, those parties must have been identified on the short-form application under Section 1.2105(c), even if the agreement had not been reduced to writing. If parties had not agreed in principle by the filing deadline, an applicant should not have included the names of those parties on its application, and must not have continued negotiations with other applicants for licenses in the same geographic area.⁷ For further details regarding the prohibition against collusion refer to the *Auction No. 40 Procedures Public Notice*.⁸

Winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process. Bidders found to have violated the anti-collusion rule may be subject to sanctions.⁹ In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If a bidder is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.¹⁰

Long-Form Applications. Applicants that claim status as a small business should be aware that at the long-form application stage, they will be subject to more extensive reporting requirements contained in the Commission's Part 1 ownership disclosure rule.¹¹ In addition, applicants with foreign ownership interests will be required to comply with 47 U.S.C. Section 310(b) at the long-form application stage.

FCC Form 175 Search. At certain times during the application process, the FCC Form 175 Search application enabled users to review applications to participate in Auction No. 40. Prior to 5:30 p.m. ET on Friday, October 5, 2001, the application's search results may have displayed some licenses with incorrect bandwidth designations. For example, block EA licenses may have been displayed with a bandwidth designation of 152.00 MHz rather than 158.00 MHz. Please be advised that all other license information

⁷ Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd 9645 (1995).

⁸ *Auction No. 40 Procedures Public Notice* at 5-6 and Attachment G, 16 FCC Rcd at 7664-66 and 7750-52; see also Wireless Telecommunications Bureau Staff Provide Guidance on Completing the Short-Form Application (FCC Form 175) for Auction No. 40, Auction of Licenses for Lower and Upper Paging Bands, *Public Notice*, DA 01-2122 (rel. Sept. 10, 2001) ("*Auction No. 40 Guidance Public Notice*") at 2-3.

⁹ 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.2109(d).

¹⁰ 47 C.F.R. §1.2109 (d).

¹¹ 47 C.F.R. § 1.2112(b)(2).

displayed was correct. Furthermore, the display of an incorrect bandwidth designation in a search result had no effect on the correct content of the application, including the licenses selected. All previously incorrect bandwidth designations have been corrected.

For additional information regarding this *Public Notice*, please contact Lisa Stover, Auctions Project Manager at (717) 338-2888, Jeff Crooks, Auctions Analyst, or Erik Salovaara, Auctions Attorney, at (202) 418-0660. Questions about software or hardware should be directed to Technical Support at (202) 414-1250.

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