



PUBLIC NOTICE

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DA 01-2507
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AUCTION OF LICENSES FOR MULTIPLE ADDRESS SYSTEMS SPECTRUM

13 Qualified Bidders

Report No. AUC-01-42-D (Auction No. 42)

In this *Public Notice*, the Federal Communications Commission (“FCC” or “Commission”) identifies 13 applicants found to be qualified to bid in the Multiple Address Systems (“MAS”) Spectrum Auction (“Auction No. 42”). Auction No. 42 is scheduled to begin on Wednesday, November 14, 2001, and will include 5,104 multiple address systems licenses. In addition, this *Public Notice* contains bidding instructions and other important information regarding Auction No. 42.

Attachment A lists each of the 13 qualified bidders, their upfront payments, and maximum eligibility in bidding units.¹

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. 42, 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/42/>.

Waiver Request: 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. 42, 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.

¹ We note, however, that IBG, Inc. (“IBG”) is listed as a qualified bidder only conditionally, pending resolution of a request for waiver, filed on October 25, 2001, of the upfront payment deadline. The Wireless Telecommunications Bureau reserves the right to find IBG ineligible to bid and dismiss its short-form application (FCC Form 175) should the request for waiver be denied.

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. 42 Procedures Public Notice* and subsequent public notices.² An electronic copy of this *Public Notice*, and other documents related to Auction No. 42, 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 Wednesday, November 7, 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.

² See Multiple Address Systems Spectrum Auction Scheduled for November 14, 2001; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedural Issues, *Public Notice*, DA 01-1789 (“*Auction No. 42 Procedures 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. 42. 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. 42, 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. 42, calculated in accordance with the formulas previously announced.³ 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.

Messages and Announcements. The FCC will post pertinent auction information as messages and

³ *Id.* at 27-28. For information on the minimum opening bid for each of the licenses offered in Auction No. 42, *see id.*, Attachment A.

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 Wednesday, November 14, 2001, there will be two rounds of bidding as follows:

Bidding Period	9:00 a.m.	-	11:00 a.m. ET
Bidding Period	2:00 p.m.	-	4:00 p.m. ET

The bidding schedule for Thursday, November 15, 2001, and continuing until further notice, will be:

Bidding Period	9:00 a.m.	-	10:00 a.m. ET
Bidding Period	11:00 a.m.	-	12:00 p.m. ET
Bidding Period	1:30 p.m.	-	2:30 p.m. ET
Bidding Period	3:30 p.m.	-	4:30 p.m. ET

Round results will be provided after the close of each round. Due to the large number of licenses, however, it may take up to 30 minutes 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
FCC Technical Support Hotline (all technical questions, software and hardware)	(202) 414-1250
FCC Auctions Division (legal questions)	(202) 418-0660

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. 42, 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.⁴ 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:

⁴ 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 Francis Gutierrez, at the same address, Room 4-A425.

Applicants that send their letters via Federal Express or any other express mail service should use the zip code "20024." Hand-delivered or messenger-delivered letters will be accepted at 9300 East Hampton Drive, Capitol Heights, MD 20743.⁵

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).⁶ Major modifications (*e.g.*, changing the markets applied for, changing control of the applicant, changing the certifying official) will not be accepted.⁷

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.⁸

Mock Auction. The FCC will conduct a mock auction on Friday, November 9, 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. 42 registration materials.

The mock auction will include all Auction No. 42 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 all MAS licenses. The program will also assume that each bidder submitted upfront payments of \$50,000, which corresponds to 50,000 bidding units.** The mock auction will

⁵ See FCC Announces Changes in Filing Procedures, *Public Notice*, DA 01-2430 (rel. Oct. 17, 2001); FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, DA 01-2436 (rel. Oct. 17, 2001); Clarification on FCC's Announced Changes in Filing Procedures, *Public Notice*, DA 01-2451 (rel. Oct. 18, 2001).

⁶ 47 C.F.R. § 1.2105(b).

⁷ *Id.*

⁸ *Auction No. 42 Procedures Public Notice* at 6-7 and Attachment B. The Public Safety Private Wireless Division will release shortly a public notice providing supplemental due diligence information on pending MAS matters. However, applicants are reminded that they are solely responsible for identifying associated risks and investigating and evaluating the degree to which matters may affect their ability to bid on, otherwise acquire, or make us of licenses available in Auction No. 42.

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 Friday, November 9, 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
<u>Round 4 Bidding Period</u>	4:00 p.m. - 4:30 p.m. ET

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. 42, this prohibition became effective at the filing deadline of short-form applications on Friday, September 28, 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.⁹

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 importance to that application.¹⁰ Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.¹¹ For further details regarding the prohibition against collusion refer to the

⁹ Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd 9645 (1995).

¹⁰ 47 C.F.R. § 1.65.

¹¹ The Commission recently amended Section 1.2105 to require auction applicants to report prohibited communications in writing to the Commission immediately, but in no case later than five business days after the communication occurs. Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, *Seventh Report and Order*, FCC 00-1270, at 10 (rel. Sept. 27, 2001). This rule takes effect 30 days after publication in the Federal Register. *Id.* at 11.

*Auction No. 42 Procedures Public Notice.*¹²

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.¹³ 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.¹⁴

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.¹⁵ 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.

For additional information regarding this *Public Notice*, please contact Barbara Sibert, Auctions Project Manager at (717) 338-2888, Lyle Ishida, Auctions Analyst, or Francis Gutierrez, Auctions Attorney, at (202) 418-0660. Technical questions about software or hardware should be directed to Technical Support at (202) 414-1250.

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¹² *Auction No. 42 Procedures Public Notice* at 4-5 and Attachment I.

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

¹⁴ 47 C.F.R. §1.2109 (d).

¹⁵ 47 C.F.R. § 1.2112(b)(2).