



PUBLIC NOTICE

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DA 01-258
February 2, 2001

AUCTION OF LICENSES FOR 700 MHz GUARD BANDS

5 Qualified Bidders

Report No. AUC-38-E (Auction No. 38)

In this *Public Notice*, the Federal Communications Commission (“FCC” or “Commission”) identifies 5 applicants found to be qualified to bid for the 8 licenses in the 700 MHz Guard Bands spectrum auction (“Auction No. 38”). Auction No. 38 is scheduled to begin on Tuesday, February 13, 2001. In addition, this *Public Notice* contains bidding instructions and other important information regarding Auction No. 38.

Attachment A lists each of the 5 qualified bidders, their upfront payments, and maximum eligibility in bidding units.

Attachment B lists the licenses selected on each qualified bidder’s FCC Form 175.

Attachment C contains software downloading/installation instructions for participation in the mock auction.

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

Attachment E provides information on accessing the FCC network using Windows 95/98.

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. 38 Procedures Public Notice*.¹ This *Public Notice*, and other documents related to Auction No. 38, are available on the Commission’s 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. Each mailing will include confidential bidding codes. The second mailing will also include

¹ See “Auction of Licenses for the 700 MHz Guard Bands Scheduled for February 13, 2001; Auction Notice and Filing Requirements for 8 Licenses in the 700 MHz Guard Bands; Minimum Opening Bids, and Other Procedural Issues,” *Public Notice*, DA 00-2571 (rel. November 14, 2000) 65 Fed. Reg. 83024 (“*Auction No. 38 Procedures Public Notice*”).

remote bidding system software, if ordered. Upon receipt of both mailings, each bidder should be in possession of the following information:

- FCC Account Number (as assigned by FCC)
- Bidder Identification Number
- Login ID
- Login Password
- Remote bidding system software and instruction booklet, (if purchased)
- FCC Bidder Line Telephone Number

Qualified bidders are solely responsible for ensuring the security of their computer systems, the security of their bidding codes, 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 Thursday, February 8, 2001**, must contact the Auctions Hotline directly at (717) 338-2888. It is the responsibility of each qualified bidder to ensure that all registration information has been received.

Note: The bidding software included in the second registration mailing is not the same software used in the mock auction, and is specifically designed only for use in the actual auction event. Qualified bidders may download the mock auction software, as discussed below.

Bidding Code Replacement. Lost Login IDs, Login Passwords, and Bidder Identification Numbers can only be replaced at FCC Auction Headquarters, located at 445 12th Street, S.W., Washington, D.C. If replacement is necessary, the authorized representative should immediately contact the technical support hotline to arrange for the generation of replacement bidding codes. Either an authorized representative or the certifying official, as designated on the applicant's FCC Form 175, must appear in person with two forms of identification, at least one of which must be a photo ID.

Electronic Bidding Software. Only qualified bidders that have purchased the Commission's electronic bidding software will be permitted to bid electronically. The FCC Remote Bidding Software will not accept electronic bids from qualified bidders that have not purchased the bidding software. The software has been updated for Auction No. 38; therefore, **software from previous auctions will not work for this auction.** For backup purposes, bidders are advised to duplicate the electronic bidding software for use by each of its authorized bidders at different locations.

The FCC Remote Bidding System requires access to a 900 service telephone line. Bidders should verify in advance that the telephone systems they will be using to submit electronic bids permit access to 900 service telephone numbers, and should consult their telephone administrators if they need assistance.

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 not to bid electronically 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.

Minimum Opening Bids. There will be a minimum opening bid for each license in Auction No. 38, 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.

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

Bidding Schedule. The bidding schedule for Tuesday, February 13, 2001, and continuing until further notice, will be:

Bidding Period	9:00 a.m.	-	9:20 a.m. ET
Round Results	9:20 a.m.	-	9:35 a.m. ET
Bidding Period	10:30 a.m.	-	10:50 a.m. ET
Round Results	10:50 a.m.	-	11:05 a.m. ET
Round Period	12:00 p.m.	-	12:20 p.m. ET
Round Results	12:20 p.m.	-	12:35 p.m. ET
Round Period	1:30 p.m.	-	1:50 p.m. ET
Round Results	1:50 p.m.	-	2:05 p.m. ET
Round Period	3:00 p.m.	-	3:20 p.m. ET
Round Results	3:20 p.m.	-	3:35 p.m. ET
Round Period	4:30 p.m.	-	4:50 p.m. ET
Round Results	4:50 p.m.	-	5:05 p.m. ET

The FCC will set the pace of the auction based upon its monitoring of the bidding and its assessment of the

² See Auction No. 38 Procedures Public Notice at 25. For information on the minimum opening bid for each of the licenses offered in Auction No. 38, see Auction No. 38 Procedures Public Notice, Attachment A.

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 D (How to Monitor the FCC Auction On-Line) of this *Public Notice* provides instructions for reviewing and downloading round results, as well as other material related to Auction No. 38, released by the Commission during the course of the auction.

Auction Tracking Tool (ATT). The FCC has developed a tool for tracking the results of its auctions. The ATT is a stand-alone application, which runs on Windows 95-98 and NT operating systems and does not require any other software, although some advanced features require Microsoft Excel 97. The tool will allow users to import round result files and analyze bidding results after each round of the auction. For installation and user instructions, see the README file, the ATT User Manual, or the on-line help system that accompanies the ATT.

The ATT version specifically designed for Auction No. 38 will be available for downloading at noon on Thursday, February 8, 2001 and should be used in both the mock auction and the actual auction. Also, a sample version of the tool from a previous auction is currently available for those individuals wishing to familiarize themselves with the ATT before the auction. Both versions are located at the auctions web site, <http://www.fcc.gov/wtb/auctions>. Under the "Auctions" section on the right, select **700 MHz Guard Band (#38)**, and from the menu select **Auction Tracking Tool** or **Sample Auction Tracking Tool**, as appropriate.

The ATT, provided to bidders free of charge, is an additional means of analyzing the auction round results. Bidders should have a back up strategy in place, which may be quickly implemented, should they experience technical difficulties with the ATT.

User Requirements. This software is designed to be used by a wide range of users. For most effective use of the tool, users should be familiar with:

- Microsoft Windows 95/98 or NT
- Microsoft Excel 97
- The FCC simultaneous multiple round auction format

Software and Hardware Requirements. At a minimum, you will need the following:

- Microsoft Windows 95/98 or NT.
- Up to 40-50 MB of available hard disk space. For the application itself, only 2-3 MB will be necessary, but the auction database can grow quite large.
- 16 MB RAM and Pentium™ based processor are required with 32 MB RAM and a Pentium™ 166 or higher strongly recommended.
- Some advanced features of the tool will require Microsoft Excel 97, but the majority of the tool's features can be used without Excel.

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 It is the staff's position that 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:

Louis Sigalos
Deputy Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau
Federal Communications Commission
Room 4-A668
445 12th Street, SW
Washington, DC 20554

A courtesy copy should also be sent to Howard Davenport, at the same address, Room 4-A435. 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 Friday, February 9, 2001, to allow qualified bidders to familiarize themselves with the electronic bidding software. Only qualified bidders will be permitted to participate in the mock auction. As in the actual auction, telephonic bidding will be available during the mock auction. Qualified bidders that wish to place bids telephonically, should use the telephone number supplied in the Auction No. 38 registration materials. Pre-registration is not required to participate in the mock auction.

³ See 47 C.F.R § 1.65.

⁴ See 47 C.F.R. § 1.2105(b).

⁵ *Id.*

⁶ See *Auction No. 38 Procedures Public Notice* at 8-9; see also "Auction of Licenses for 700 MHz Guard Bands; Status of FCC Form 175 Applications to Participate in the Auction," *Public Notice*, DA 01-138 (released January 19, 2001) ("*Auction No. 38 Status Public Notice*").

The mock auction will include all Auction No. 38 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 8 licenses. The program will also assume that each bidder submitted upfront payments of \$161,000, which corresponds to 161,000 bidding units. The mock auction will simulate the start of the auction and all bidders will be required to be active on 100 percent of their bidding units, or risk having a waiver automatically applied. If there are no activity rule waivers available, the bidder's eligibility will be reduced, eliminating them from the auction.

Electronic bidders participating in the mock auction are advised to review the software manual provided in the first mailing. For installation instructions, please refer to Attachment C of this *Public Notice*.

The mock auction bidding schedule for Friday, February 9, 2001 will be:

Round 1

Bidding Period	9:00 a.m. - 9:20 a.m. ET
Round Results	9:20 a.m. - 9:35 a.m. ET

Round 2

Bidding Period	11:00 a.m. - 11:20 a.m. ET
Round Results	11:20 a.m. - 11:35 a.m. ET

Round 3

Bidding Period	1:00 p.m. - 1:20 p.m. ET
Round Results	1:20 p.m. - 1:35 p.m. ET

Round 4

Bidding Period	3:00 p.m. - 3:20 p.m. ET
Round Results	3:20 p.m. - 3:35 p.m. ET

Auction No. 38 bidders who wish to participate in the mock auction using electronic bidding must establish a Point-to-Point Protocol (PPP) connection to the FCC Auction Network through either an 800 or a 900 number, as selected through the mock auction software. (The FCC strongly encourages participants to test their ability to connect using the 900 number, in order to identify any potential problems such as a 900-number telephone block. There will be no access charge for the first minute of the 900-number connection time.)

When participants establish the PPP connection and start the Mock Bidding System, they will register for the mock auction by entering their FCC Account Number. The Login Name, Login Password, and Bidder Identification Number (BINs) will be pre-filled. Note: Pre-filled codes are used for the mock auction only. For the actual auction, bidders must enter the confidential bidding codes supplied in the overnight mailings in order to access the bidding software.

Remote bidding software for the mock auction will be available via the FCC's Internet System by noon on Thursday, February 8, 2001. See Attachment C for downloading/installation instructions. This software is specifically designed for this simulation, and is not adaptable to any other FCC spectrum auction. As part of the software, the Commission has established a suggestion box and welcomes your comments regarding the software.

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. 38, this prohibition became effective at the filing deadline of short-form applications on Friday, January 12, 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. 38 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 or very 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.

For additional information regarding this *Public Notice*, please contact Linda Sanderson, Auctions Project Manager at (717) 338-2888, Lyle Ishida, Auctions Analyst, or Howard Davenport, 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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⁷ "Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, DA 95-2244 (rel. October 26, 1995), 11 FCC Rcd 9645 (1995).

⁸ See *Auction No. 38 Procedures Public Notice* at 6-7.

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

¹⁰ See 47 C.F.R. § 1.2109 (d).

¹¹ See 47 C.F.R. § 1.2112(b).