

## ATTACHMENT C

### 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, as exhibits to the FCC Form 601, required by our rules. 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:

##### A. 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, in addition to the materials described below, all the information that is required under our rules is included with their FCC Form 601 applications. Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application. *See* 47 C.F.R. § 1.65. **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).

An applicant that fails to submit the required FCC Form 601 application by **6:00 p.m. ET on June 20, 2002**, 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 may submit *one* FCC Form 601 (including all required schedules, attachments, and exhibits) if *all* filing requirements associated with the application are identical *except* for the market designator(s) and market name(s). An applicant seeking tribal lands bidding credits in one or more, but not all markets, however, is encouraged to submit two applications in order to separate those markets in which the applicant intends to apply for tribal lands bidding credits from those markets in which the applicant is not seeking tribal lands bidding credits.

##### B. SPECIFIC INITIAL LONG-FORM APPLICATION REQUIREMENTS FOR THE CELLULAR RADIOTELEPHONE SERVICE

In addition to the general information that applicants are required to submit pursuant to our rules, applicants for authorizations in the Cellular Radiotelephone Service are required to provide certain technical information when submitting their initial long-form applications (Form 601) for Cellular Radiotelephone Service licenses. This includes the following information required by Section 22.929 of the Commission's Rules. *See* 47 C.F.R. § 22.929.

- Site coordinates must be referenced to NAD83 and be correct to +-1 second.
- Administrative information, including
  - (1) Location description; city; county; state; geographical coordinates correct to +- 1 second, the datum used (NAD 83), site elevation above mean sea level, proximity to adjacent market boundaries and international borders;

- (2) Antenna height to tip above ground level, the height of the center of radiation of the antenna above the average terrain, the height of the antenna center of radiation above the average elevation of the terrain along each of the 8 cardinal radials, antenna gain in the maximum lobe, the beamwidth of the maximum lobe of the antenna, a polar plot of the horizontal gain pattern of the antenna, the electric field polarization of the wave emitted by the antenna when installed as proposed; and
- (3) The channel block requested, the maximum effective radiated power, the effective radiated power in each of the cardinal radial directions.

**1. Filing of information required by Section 22.929 delayed for Auction No. 45 winning bidders until after grant of license.**

Because of technical reasons, applicants will not be able to upload into the Commission's Universal Licensing System (ULS) the information required by Section 22.929 at the time that they file their Form 601s. Accordingly, for purposes of Auction No. 45, on our own motion we will partially waive Section 22.929, which requires that the information be furnished at the time the Form 601 is filed. Applicants will be required nonetheless to supply the information required by Section 22.929 **within thirty (30) days after the grant of their licenses**. Specifically, Auction No. 45 licensees must amend their form 601 applications after their licenses are granted in order to add the information required by Section 22.929.

Please also note that to the extent that Auction No. 45 licensees modify their applications to submit the required information, such amendments will be considered a minor modification under Section 1.929. *See* 47 C.F.R. § 1.929 for purposes of Auction No. 45. Auction No. 45 licensees therefore should answer "NO" to Question No. 7 on the Form 601 when submitting their amendments.

**2. Auction No. 45 winning bidders to use "CX" radio service code.**

Second, also for technical reasons pertaining to the ULS, winning bidders are directed to use radio service code "CX" when filing their initial long-form applications (Form 601) for Cellular Radiotelephone Service licenses won through Auction No. 45. Prior to granting the licenses, the Bureau will change the radio service code to "CL" so that it is consistent with other cellular licenses.

The two above-noted processing changes implemented for Auction No. 45 are strictly procedural in nature. Except as expressly provided herein, these procedural changes do not affect the requirements of Part 22 of our rules, and all other Cellular Radiotelephone Service requirements must be satisfied in accordance with our rules. *See* 47 C.F.R. Part 22.

**II. FILING FCC FORM 601 ELECTRONICALLY**

1. Access the Commission's Universal Licensing System (ULS) Online Filing through the Internet at <http://wireless.fcc.gov/uls>. Select the Online Filing button from this page.

You may also connect to the ULS Online Filing by establishing a direct dial-up connection to ULS by pointing your web browser to <http://wireless.fcc.gov/uls> and selecting the ULS Online Filing button. (Follow the instructions set forth in Attachment E to this Public Notice on accessing ULS through a direct dial-up connection.)

**Note:** You may use Netscape Communicator (v. 4.5, 4.51, 4.61, 4.7x) or Internet Explorer (v. 5.5-6.2) 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/archive.html>. You may also download Internet Explorer at <http://www.microsoft.com/windows/ie/downloads/default.asp>.

2. At the ULS Online Filing login screen, enter the applicant's FCC Registration Number (FRN) and password. Click "Continue." Alternately, you may provide your TIN/SGIN and password. ULS will verify you have a valid FRN or otherwise prompt you to obtain an FRN through the Commission Registration System (CORES).

**Note:** You must login to ULS with the FRN used to identify the applicant on Form 175.

For instructions on assigning existing call signs to your FRN, see Attachment D. For additional information on the FRN, see All Universal Licensing System and Antenna Structure Registration Applicants must use their FCC Registration Number(s), effective December 3, 2001, *Public Notice*, DA 01-2452, (October 23, 2001), <http://wireless.fcc.gov/uls/releases/da012452.txt>.

Contact Technical Support at (202) 414-1250 if you have problems accessing ULS.

3. Click on the "Select New Filing" button to begin filing your application.
4. Select Application Purpose "New" from the drop-down list and click on "Continue."
5. Select the following option from the Auction ID drop-down list and click "Continue."  
45 – CX – Cellular, Auctioned
6. Supply the information requested by FCC Form 601 and the Commission's Rules.

If you plan to file a request for waiver or exception to the Commission's Rules, select "Yes" for the third question.

7. After supplying all the requested information, fill in your signature at the bottom of the page and click "Continue."
8. The following screen lists all of the markets won by the applicant at the auction that have the same radio service code. 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 are applying for markets in which you intend to seek tribal lands bidding credits, see Section IV of this Attachment.
9. After the market(s) have been selected, click on the "Attachments" button and upload the required attachments as described in the following section. Be sure to use the standard attachment types and file descriptions set forth herein.
10. When finished uploading attachments, close the Attachment window. After uploading each of the required attachments, click on the "Continue" button. At this point, you either can "Print Preview" your application or "Submit" it to the Commission.
11. 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 FRN and Password **or** your TIN/SGIN and password. On the next screen, click on the file number of the desired application in "Complete" status.

12. If you wish to change anything **after** the filing deadline, you may enter your FRN and Password **or** 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

**Form 601- and Rule-Related Exhibits.** Any exhibits to be attached to an application in response to a question on the Main Form or Schedule B of FCC Form 601 or as specified in the Commission’s Rules 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, and ASCII text. To submit a graphic image it must first be imported into a Word document or a PDF. See [http://wireless.fcc.gov/uls/support/help/help\\_attach.html](http://wireless.fcc.gov/uls/support/help/help_attach.html) for a full list of acceptable file formats. Applicants are requested not to add password protections to attached files.

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: Designated Entities	Designated Entity Applicants
Exhibit D: Agreements & Other Instruments	If Applicable
Exhibit E: Confidentiality Requests	If Applicable
Exhibit F: Waiver Requests	If Applicable
Exhibit H: 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>
Exhibit Z: Applicant Certification	If Applicable <sup>3</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.

#### EXHIBIT A: OWNERSHIP INFORMATION

Section 1.2112 of the Commission’s Rules requires that each applicant for a license shall disclose fully the real party- or parties-in-interest. 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.

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

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

<sup>3</sup> See *id.*

Applicants should provide the information concerning the applicant (*i.e.*, real party- or parties-in-interest), and the 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: Direct Ownership:** Applicant must provide information regarding its direct ownership as follows:

- *General Rule:* The applicant must provide the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held. *See* 47 C.F.R. § 1.2112(a)(1).
- If the applicant is a general partnership, provide the name, address, and citizenship of each partner, and the share or interest participation in the partnership. *See* 47 C.F.R. § 1.2112(a)(3).
- If the applicant is a limited partnership, provide the name, address, and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses). *See* 47 C.F.R. § 1.2112(a)(2).
- If the applicant is a limited liability company, provide the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater. *See* 47 C.F.R. § 1.2112(a)(4).

**Part 2: Indirect Ownership:** Applicant must identify all parties holding indirect ownership interests in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds fifty percent or represents actual control, it shall be treated and reported as if it were a one hundred percent interest. *See* 47 C.F.R. § 1.2112(a)(5).

**Part 3: Other Disclosable Interests and Entities:** Applicant must list any FCC-licensed 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, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each entity's relationship to the applicant. *See* 47 C.F.R. § 1.2112(a)(6).

**Note:** Applicants may provide information required in Parts 1 through 3 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 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, in paper form, must be filed, or be on file, with the Commission's Gettysburg office by the filing deadline for the FCC Form 601. *See* discussion in Section V; *see also* Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602, *Public Notice*, 14 FCC Rcd 8261, 8264 (1999).

## 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>4</sup> the Commission stated that there is a presumption that indirect foreign ownership of common carrier radio licenses by entities whose home markets are World Trade Organization (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 member countries, 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 FCC Form 175 applications that they either are in compliance with the foreign ownership requirements of Section 310 or that they have filed a request for relief from 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 FCC Form 601 applications that they either have 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

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<sup>4</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*, 15 FCC Rcd. 18158 (2000).

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) 418-1527.

## **EXHIBIT C: DESIGNATED ENTITIES**

Pursuant to Section 1.2110(f)(1) of the Commission's Rules, the Commission may award bidding credits (*i.e.*, payment discounts) to eligible designated entities qualifying as entrepreneurs, small and very small businesses and consortia of entrepreneurs, small and very small businesses under the Commission's individual service rules. *See* 47 C.F.R. §§ 1.2110(f)(1), (2). Section 22.229(b) of the Commission's Rules establishes that entrepreneurs, small and very small businesses, along with consortia of entrepreneurs, small and very small businesses, will be eligible for designated entity status in the Cellular RSA auction (Auction No. 45). *See* 47 C.F.R. § 22.229(b); *see also* Implementation of Competitive Bidding Rules to License Certain Rural Service Areas, WT Docket No. 01-32, *Report and Order*, 17 FCC Rcd 1960 (2002) ("*Cellular RSA Report and Order*").

**Entrepreneurs under Section 22.229(a)(3):** An entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues that are not more than **\$40 million** for the preceding three years. *See* 47 C.F.R. §§ 1.2110(f)(2)(iii), 22.229(a)(3). Entrepreneurs are eligible for bidding credits of **fifteen percent (15%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(iii), 22.229(b).

**Consortia of Entrepreneurs under Section 22.229(a)(4):** A consortium of entrepreneurs is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition of an entrepreneur. *See* 47 C.F.R. § 22.229(a)(4). Each mutually independent small business has to have average gross revenues that are not more than **\$40 million** for the preceding three years. *See* 47 C.F.R. §§ 1.2110(b)(3)(i), 22.229(a)(4). Consortia of entrepreneurs are eligible for bidding credits of **fifteen percent (15%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(iii), 22.229(b).

**Small Businesses under Section 22.229(a)(2):** A small business is an entity that, together with its affiliates and controlling interests, has average gross revenues that are not more than **\$15 million** for the preceding three years. *See* 47 C.F.R. §§ 1.2110(f)(2)(ii), 22.229(a)(2). Small businesses are eligible for bidding credits of **twenty-five percent (25%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(ii), 22.229(b).

**Consortia of Small Businesses under Section 22.229(a)(4):** A consortium of small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition of a small business. *See* 47 C.F.R. § 22.229(a)(4). Each mutually independent small business has to have average gross revenues that are not more than **\$15 million** for the preceding three years. *See* 47 C.F.R. §§ 1.2110(b)(3)(i), 22.229(a)(4). Consortia of Small businesses are eligible for bidding credits of **twenty-five percent (25%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(ii), 22.229(b).

**Very Small Businesses under Section 22.229(a)(1):** A very small business is an entity that, together with its affiliates and controlling interests, has average gross revenues that are not more than **\$3 million** for the preceding three years. *See* 47 C.F.R. §§ 1.2110(f)(2)(i), 22.229(a)(1). Very small businesses are eligible for bidding credits of **thirty-five percent (35%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(i), 22.229(b).

**Consortia of Very Small Businesses under Section 22.229(a)(4):** A consortium of very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition of a very small business. *See* 47 C.F.R. § 22.229(a)(4). Each mutually independent very small business has to have average annual gross revenues that are not more than **\$3 million** for the preceding three years. *See* 47 C.F.R. §§ 1.2110(b)(3)(i), 22.229(a)(4). Consortia of very small businesses are eligible for bidding credits of **thirty-five percent (35%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(i), 22.229(b).

In order to demonstrate eligibility for any such designated entity status, applicants must upload a file, select Attachment Type “Ownership” and enter “**Exhibit C: Designated Entities**” in the File Description field on the Attachment screen. In the exhibit, applicants should include the applicable information:

- (i) Identify the applicant’s claimed eligibility status.
- (ii) Calculate the Gross Revenues:

**For Entrepreneurs, Small and Very Small Businesses:** For purposes of determining whether an entity is an entrepreneur, small or very small business, the gross revenues of the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests shall be considered on a cumulative basis and aggregated. *See* 47 C.F.R. §§ 1.2110(b)(1), 1.2112(b)(2)(iii), 22.229(a)(5). To comply, provide in accordance with Section 1.2110(n) of the Commission’s Rules, 47 C.F.R. § 1.2110(n), the gross revenues for the most recently completed three calendar or fiscal years preceding the filing of the applicant’s FCC Form 175, separately for the applicant, each of its affiliates, each of its controlling interests, and each of the affiliates of its controlling interests. *See* 47 C.F.R. § 1.2112(b)(2)(iii); *see also* 47 C.F.R. § 1.2110(b)(3), (n). Gross revenues shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business, as evidenced by audited financial statements. If the applicant does not use audited financial statements, its gross revenues may be certified by its chief financial officer or its equivalent and must be prepared in accordance with Generally Accepted Accounting Principles. If an entity was not in existence for all or part of the preceding three years, gross revenues shall be evidenced by the audited financial statements of the entity’s predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate. *See* 47 C.F.R. § 1.2110(n).

Calculate the average gross revenues separately for the applicant, each affiliate, each of its controlling interests, and each affiliate of the applicant’s controlling interests for those three years. Provide the aggregate average gross revenues for the applicant, its affiliates, its controlling interests, and affiliates of its controlling interest for those three years. *See* 47 C.F.R. §§ 1.2110(b)(1), 1.2112(b)(2)(iii), 22.229(a)(5).

**For Consortia of Entrepreneurs, Small and Very Small Businesses:** Applicants that applied as an entrepreneur, small or very small business consortia as defined in Sections 1.2110(b)(3)(i) and 22.229(a)(4) of the Commission’s Rules, 47 C.F.R. §§ 1.2110(b)(3)(i), 22.229(a)(4), must compute and indicate gross revenues as outlined above for *each* small or very small business in the consortium. That is, each business entity comprising the entrepreneur, small or very small business consortium must qualify and show gross revenues separately. The average gross revenues of all of the entrepreneur, small or very small businesses in the consortium shall not be aggregated. *See* 47 C.F.R. §§ 1.2110(b)(3)(i), 22.229(a)(4).

- (iii) Controlling Interests and Affiliates:



All controlling interests and affiliates, as defined by the Commission’s Rules, must be included in the gross revenue calculations discussed above. *See* 47 C.F.R. § 1.2110(c)(2), (c)(5). Please note the following:

- Officers and directors of the applicant or of an entity that controls the applicant are considered to have a controlling interest in the applicant. *See* 47 C.F.R. § 1.2110(c)(2)(ii)(F).
- Any person who manages the operations of an applicant pursuant to a management agreement may be considered to have a controlling interest in the applicant. *See* 47 C.F.R. § 1.2110(c)(2)(ii)(H).
- Any licensee or its affiliate who enters into a joint marketing arrangement with an applicant or its affiliate may be considered to have a controlling interest in the applicant. *See* 47 C.F.R. § 1.2110(c)(2)(ii)(I).

(iv) Minority-Owned and Women-Owned Business and Rural Telephone Companies

We are interested in the status of applicants as minority-owned and women-owned businesses and rural telephone companies for statistical purposes, even if the applicant is ineligible for bidding credits. *See* 47 C.F.R. § 1.2110(c)(3), (4).

#### **EXHIBIT D: 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 entered into 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 or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant’s eligibility as an entrepreneur, small or very small business or a consortium of entrepreneurs, small or very small businesses, including the establishment of *de facto* and *de jure* control. *See* 47 C.F.R. § 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* 47 C.F.R. § 1.2112(b)(2)(i). These applicants also must list and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees. *See* 47 C.F.R. § 1.2112(b)(2)(ii).

To comply with these requirements, applicants may submit either the agreements themselves or a detailed summary of those agreements. Applicants should upload the information in a file, select Attachment Type “Other” and enter “**Exhibit D: Agreements & Other Instruments**” in the File Description field on the Attachment screen. Applicants choosing to submit the agreements may elect to seek confidentiality for those documents pursuant to section 0.459 of the Commission’s Rules. *See* 47 C.F.R. § 0.459; *see also* discussion of confidentiality requests under “Confidentiality Requests” below.

#### **EXHIBIT E: 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 Section 0.459 of the Commission's Rules. *See* 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 Section 0.459 of the Commission's Rules. *See* 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 made routinely available for public inspection. *See* Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96-55, *Report and Order*, 13 FCC Rcd 24816 (1998)). Because the required information bears on an applicant's qualifications, the Commission envisions that confidentiality requests will not be granted routinely.

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 E: Confidentiality Requests**" in the File Description field on the Attachment Screen.

**Note: 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 F: WAIVER REQUESTS**

**Note: This part does not apply to tribal lands waiver requests. For tribal lands waiver requests, see Section IV, "Exhibit Y: Tribal Lands Waiver Requests."**

In the event that a winning bidder wishes to file a request for waiver, the request should be filed with the corresponding application. Applicants should upload this waiver request as a file, select Attachment Type "Waiver" and enter "**Exhibit F: Waiver Requests**" in the File Description field on the Attachment screen.

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, including its file number.

#### **EXHIBIT H: MISCELLANEOUS INFORMATION**

In the event that a winning bidder wishes to provide any additional information that does not fall within any of the other exhibits, these documents or files should be submitted by selecting Attachment Type "Other" and entering "**Exhibit H: 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). For a list of the tribal lands in each Cellular Market Area (CMA) (or Metropolitan Statistical Area (MSAs) and Rural Statistical Areas (RSAs)), go to the Auction website at <http://wireless.fcc.gov/auctions> and click on "Tribal Land Credits," and then click on "Cross References." Instructions for applying for tribal lands

bidding credits through ULS are also provided at the above-referenced website. Click on “Tribal Land Credits,” and then click on “ULS Application Instructions.”

Applicants indicating that they intend to serve a qualifying tribal land 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. Within this 90-day period, applicants must amend their application to provide the requisite tribal information and provide the applicant certification. 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.

Any applicant that intends to apply for tribal lands bidding credits must do so by the filing deadline for the long-form applications. Applicants will not be permitted to amend their applications after the filing deadline to indicate that they intend to seek a tribal lands bidding credit for a market. 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 FRN and password **or** TIN/SGIN and password into the ULS Filing Screen.

Note: An FRN is required to access ULS. See page 2 to this attachment for additional information.

- 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, the Schedule B, consisting of the markets selected by the applicant on the initial long-form application, along with the box indicating whether or not tribal lands bidding credit is being sought for the markets. Click “Continue.”
- ULS will present a drop-down list consisting of the markets where a tribal lands bidding credit is being sought. Select the market for which you have tribal government certifications and click “Edit Tribal Lands.”
- ULS also will provide the names of the federally recognized tribal lands in each market and the square kilometers of each tribal land within that market. For each market where a tribal lands bidding credit is being sought, the applicant must mark the tribal lands that it intends to serve and attach a signed, tribal government certification from each of the federally recognized tribal governments and an applicant certification. *See* “**Exhibit X: Tribal Government Certification**” and “**Exhibit Z: Applicant Certification.**”

ULS will calculate the bidding credit amount for each market automatically, 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, WT Docket No. 99-266, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 11794, 11803, at ¶ 25 (2000) (“*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*, 15 FCC Rcd 24838, 24839 (2000) (“*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* “**Exhibit Y: Tribal Lands Waiver Requests.**”

## **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 (“RSA582, North Dakota 3 - Barnes”)”).

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 wireline 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*, 15 FCC Rcd at 24840.

## **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 11805, ¶ 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 11805, ¶ 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 (RSA582)).

#### **EXHIBIT Z: APPLICANT CERTIFICATION**

The applicant must attach a certification stating that it will comply with the buildout requirements set forth in § 1.2110(f)(3)(vi) of the Commission’s Rules and that it will consult with the tribal government regarding the siting of facilities and deployment of service on the tribal land. *See* 47 C.F.R. § 1.2110(f)(3)(ii)(B).

#### **V. FCC FORM 602**

A current FCC Form 602 must be on file, in paper form, with the Commission’s office in Gettysburg, Pennsylvania by the filing deadline for the FCC Form 601. *See* 47 C.F.R. §§ 1.919, 1.2107(f). If an applicant already has an FCC Form 602 on file and it is complete and accurate, it is not necessary to file another FCC Form 602. If the applicant does not have an FCC Form 602 on file or if its FCC Form 602 is no longer complete and accurate, the applicant **must** submit a new or updated FCC Form 602 so that it arrives at the Commission’s Gettysburg office by the filing deadline for the FCC Form 601 (*i.e.*, it is not sufficient to mail the FCC Form 602 on last day of the FCC Form 601 filing period). Send all FCC Form 602s to:

**Federal Communications Commission  
Rear entrance 35 York Street  
Gettysburg, PA 17325**

For additional information about filing the FCC Form 602, see Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602, *Public Notice*, 14 FCC Rcd 8261 (1999).