



PUBLIC NOTICE

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445 12th STREET, S.W.
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DA 02-2216
September 16, 2002

AUCTION OF CONSTRUCTION PERMITS FOR NEW AM BROADCAST STATIONS SCHEDULED FOR DECEMBER 10, 2002

COMMENT SOUGHT ON RESERVE PRICES OR MINIMUM OPENING BIDS, AND OTHER AUCTION PROCEDURAL ISSUES

Report No. AUC-02-32-G (Auction No. 32)

By this Public Notice, the Media Bureau (“MB”) and the Wireless Telecommunications Bureau (“WTB”) (collectively, “Bureaus”) announce the auction of three construction permits for new AM broadcast stations (“Auction No. 32”) scheduled to commence on December 10, 2002. A list of the locations and frequencies of these stations is included as Attachment A. These new AM broadcast stations are the subject of pending, mutually exclusive short-form applications (FCC Form 175) filed on or before February 1, 2000.¹ All applications within a mutually exclusive applicant group (“MX Group”) are directly mutually exclusive with one another, and therefore a single AM construction permit will be auctioned for each MX Group identified in Attachment A.² Pursuant to the *Broadcast First Report and Order*,³ participation in Auction No. 32 will be limited to those AM applicants identified in Attachment A.⁴

¹ On November 19, 1999, the Bureaus announced a five-day period, from January 24, 2000 to January 28, 2000, for the filing of applications for new AM stations and major modifications to authorized AM stations. *AM Auction Filing Window and Application Freeze; Notice and Filing Requirements Regarding January 24-28, 2000 Window for Certain AM Construction Permits; Notice Regarding Freeze on the Acceptance of AM Minor Change Construction Permits from December 24, 1999 to January 21, 2000, Public Notice*, 14 FCC Rcd 19490 (1999) (“*Auction No. 32 Filing Window Public Notice*”). The filing window was subsequently extended to February 1, 2000. *AM Auction Filing Window and Application Freeze Extended to February 1, 2000, Public Notice*, 15 FCC Rcd 1910 (2000). Applicants were required to file an FCC Form 175 and certain sections of FCC Form 301, Application for Construction Permit, which permitted the staff to determine mutual exclusivities between applicants.

² In determining mutual exclusivity between the AM applications received during the filing window, the staff employed technical standards consistent with the Commission proceeding undertaken to revitalize and improve the AM service. *See Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273 (1991), *recon granted in part and denied in part*, 8 FCC Rcd 3250 (1993). The staff also applied the following rule sections: 47 C.F.R. §§ 73.37, 73.182, 73.183(b)(1).

³ The Commission adopted service and competitive bidding rules for mass media services, including standard broadcast (AM), frequency modulation (FM), full service commercial television (TV) and Instructional Television Fixed Service (ITFS). Also adopted were rules for the secondary services of low power television (LPTV), FM translator and television translator. *See Implementation of Section 309(j) of the Communications Act — Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, 13 FCC Rcd 15920 (1998) (“*Broadcast First Report and Order*”), *on recon.*, 14 FCC Rcd 8724 (1999) (“*Broadcast Reconsideration Order*”), *on further recon.*, 14 FCC Rcd 12541

The Balanced Budget Act of 1997 requires the Commission to “ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed . . . before issuance of bidding rules, to permit notice and comment on proposed auction procedures”⁵ Consistent with the provisions of the Balanced Budget Act, and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureaus, under existing delegated authority,⁶ to seek comment on a variety of auction-specific procedures prior to the start of each auction.⁷ We therefore seek comment on the following issues relating to Auction No. 32.

I. Auction Structure

Simultaneous Multiple Round Auction Design

We propose to award all construction permits included in Auction No. 32 in a simultaneous multiple-round auction. As described further below, this methodology offers every AM construction permit for bid at the same time with successive bidding rounds in which bidders may place bids. We seek comment on this proposal.

Upfront Payments and Initial Maximum Eligibility

The Bureaus have delegated authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as the efficiency of the auction and the value of similar spectrum.⁸ As described further below, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on the permits. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding, and provide the Commission with a source of funds from which to collect payments owed at the close of the auction.⁹ For Auction No. 32, we propose to

(1999) (“*Second Memorandum Opinion and Order*”).

⁴ MX Groups containing mutually exclusive noncommercial and commercial applications for AM construction permits are not proceeding to auction at this time, and therefore these application groups have not been included in Attachment A. *See generally Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31, *Second Further Notice of Proposed Rulemaking*, 17 FCC Rcd 3833 (2002).

⁵ Section 3002(a)(E)(i), Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 (1997) (“Balanced Budget Act”), amending Section 309(j) of the Communications Act, 47 U.S.C. § 309(j).

⁶ *See Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures*, WT Docket No. 97-82, 12 FCC Rcd 5686, 5697, ¶ 16 (1997) (“*Part 1 Order*”) (“We also clarify that pursuant to Section 0.131 of our rules, the Chief, Wireless Telecommunications Bureau, has delegated authority to implement all of the Commission's rules pertaining to auctions procedures”).

⁷ *See Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz*, WT Docket No. 97-82, ET Docket No. 94-32, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 448, ¶ 124 (1998) (“*Part 1 Third Report and Order*”). The Commission directed the Bureau to seek comment on specific mechanisms related to day-to-day auction conduct including, for example, the structure of bidding rounds and stages, establishment of minimum opening bids or reserve prices, minimum accepted bids, initial maximum eligibility for each bidder, activity requirements for each stage of the auction, activity rule waivers, criteria for determining reductions in eligibility, information regarding bid withdrawal and bid removal, stopping rules, and information relating to auction delay, suspension or cancellation. *Id.* at ¶ 125. *See also Broadcast First Report and Order*, 13 FCC Rcd at 15967-68 (consistent with the Part 1 rules, the Commission delegated authority to the Mass Media Bureau to seek comment on and establish an appropriate auction design methodology prior to the start of each broadcast auction).

⁸ *See Part 1 Order*, 12 FCC Rcd at 5697-98, ¶ 16 (1997).

⁹ *See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, Second Report and Order*, 9 FCC Rcd 2348, 2378-79, ¶¶ 171-176 (1994).

make the upfront payments equal to the minimum opening bids, which, as described in section II.B, below, are established based on various factors related to the efficiency of the auction and the potential value of the spectrum. The specific upfront payment for each construction permit is set forth in Attachment A. We seek comment on this proposal.

We further propose that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids. This limit is a bidder's "maximum initial eligibility." Each construction permit is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. Eligibility cannot be increased during the auction. In order to bid on the construction permit, qualified bidders must have an eligibility level that meets the number of bidding units assigned to that permit. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on the permit or else the applicant will not be eligible to participate in the auction. We seek comment on this proposal.

Activity Rules

In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to either place a valid bid and/or be the standing high bidder during each round of the auction rather than waiting until the end to participate.

We propose a single stage auction with the following activity requirement: In each round of the auction, a bidder desiring to maintain its eligibility to participate in the auction is required to be active on one hundred (100) percent of its bidding eligibility. A bidder's activity will be the sum of the bidding units associated with the construction permit upon which it places a bid during the current round, or the construction permit upon which it is the standing high bidder. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain; if a bidder has no activity rule waivers remaining, its eligibility will be reduced, effectively eliminating the bidder from the auction. We seek comment on this proposal.

Activity Rule Waivers and Reducing Eligibility

Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required. If there are no activity rule waivers available, the bidder's eligibility will be reduced, eliminating them from the auction.

A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

We propose that each bidder in Auction No. 32 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth above. We seek comment on this proposal.

E. Information Relating to Auction Delay, Suspension or Cancellation

For Auction No. 32, we propose that, by public notice or by announcement during the auction, the Bureaus may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of competitive bidding.¹⁰ In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

II. Bidding Procedures

A. Round Structure

The Commission will conduct Auction No. 32 over the Internet. Telephonic Bidding will also be available. As a contingency, the FCC Wide Area Network will be available as well. The telephone number through which the backup FCC Wide Area Network may be accessed will be announced in a later public notice. Full information regarding how to establish such a connection, and related charges, will be provided in the public notice announcing details of auction procedures. The start and finish time of the bidding round will also be announced in that public notice.

The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

The Bureaus have the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureaus may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. We seek comment on this proposal.

B. Reserve Prices and Minimum Opening Bids

The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid when FCC licenses or construction permits are subject to auction unless the Commission determines that a reserve price or minimum bid is not in the public interest.¹¹ Consistent with this mandate, the Commission has directed the Bureaus to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.¹²

Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer generally has the discretion to lower the

¹⁰ See 47 C.F.R. § 1.2104(i).

¹¹ See Balanced Budget Act, Section 3002(a). The Commission's authority to establish a reserve price or minimum opening bid is set forth in 47 C.F.R. § 1.2104(c) and (d).

¹² See *Part 1 Third Report and Order*, 13 FCC Rcd at 454-455, ¶ 141 (1998).

minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

In light of the Balanced Budget Act's requirements, the Bureaus propose to establish minimum opening bids for Auction No. 32. The Bureaus believe a minimum opening bid, which has been utilized in other broadcast auctions, is an effective bidding tool.¹³

For Auction No. 32, the proposed minimum opening bid prices were determined by taking into account various factors related to the efficiency of the auction and the potential value of the spectrum, including the type of service, proposed population coverage, market size, industry cash flow data and recent broadcast transactions. The specific minimum opening bid for each AM construction permit is set forth in Attachment A herein. We seek comment on this proposal.

If commenters believe that these minimum opening bids will result in unsold construction permits, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

C. Minimum Accepted Bids and Bid Increments

In each round, each eligible bidder will be able to place a bid on the particular construction permit for which it applied in any of nine different amounts.¹⁴ The Auctions Bidding System interface will list the nine acceptable bid amounts for each construction permit.

Once there is a standing high bid on the construction permit, the Auctions Bidding System will calculate a minimum acceptable bid for that construction permit for the following round, as described below. The difference between the minimum acceptable bid and the standing high bid for each construction permit will define the **bid increment**. The nine acceptable bid amounts for each construction permit consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.). Until a bid has been placed on a construction permit, the minimum acceptable bid for that construction permit will be equal to its minimum opening bid.

For Auction No. 32, we propose to use a fixed 10 percent bid increment. This means that the minimum acceptable bid for a construction permit will be approximately 10 percent greater than the previous standing high bid received on the construction permit. The minimum acceptable bid amount will be calculated by multiplying the standing high bid times one plus the fixed percentage — *i.e.*, (standing high bid) * (1.10). We will round the result using our standard rounding procedure for minimum acceptable bid calculations: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

¹³ See, e.g., *Closed Broadcast Auction – Notice and Filing Requirements for Auction of AM, FM, TV, LPTV and FM and TV Translator Construction Permits – Minimum Opening Bids and Other Procedural Issues, Auction No. 25, Public Notice*, 14 FCC Rcd 10632 (M.M. Bur. and W.T. Bur. 1999); *Supplemental Closed Broadcast Auction – Notice and Filing Requirements for Auction of Certain AM, FM, LPTV and TV Broadcast Construction Permits – Minimum Opening Bids and Other Procedural Issues, Auction No. 28, Public Notice*, 15 FCC Rcd 1370 (M.M. Bur. and W.T. Bur. 1999).

¹⁴ Bidders must have sufficient eligibility to place a bid on the particular construction permit. See Section I.B “Upfront Payments and Initial Maximum Eligibility,” *supra*.

As stated above, until a bid has been placed on a construction permit, the minimum acceptable bid for that construction permit will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the percentage increment, rounded as described above, and the minimum opening bid — *i.e.*, (minimum opening bid)(1 + percentage increment){rounded} - (minimum opening bid).

The Bureaus retain the discretion to change the minimum acceptable bids and bid increments and the methodology for determining the minimum acceptable bids and bid increments if they determine circumstances so dictate. Advanced notice of the Bureaus' decision to do so will be announced via the Auctions Bidding System. We seek comment on these proposals.

D. High Bids

At the end of a bidding round, the Automated Auctions System will determine the high bid on each construction permit. In the event of identical high bids on a construction permit in a given round (*i.e.*, tied bids), we propose to use a random number generator to select a high bid from among the tied bids. Remaining bidders will be able to submit higher bids in subsequent rounds.

A high bid will remain the high bid until there is a higher bid on the same construction permit at the close of a subsequent round. A high bid from a previous round is sometimes referred to as a “standing high bid.” Bidders are reminded that a standing high bid confers activity credit.¹⁵

E. Information Regarding Bid Withdrawal and Bid Removal

For Auction No. 32, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By using the remove bid function in the bidding system, a bidder may effectively “unsubmit” any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid. We seek comment on this bid removal procedure.

In the *Part 1 Third Report and Order*, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and construction permits and the pursuit of efficient backup strategies as information becomes available during the course of an auction. In Auction No. 32, however, aggregation of construction permits will not be possible because of the pre-established MX groups. Accordingly, for this auction, we propose that bidders not be permitted to withdraw bids in any round. We seek comment on this proposal.

F. Stopping Rule

The Bureaus have the discretion “to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time.”¹⁶ For Auction No. 32, the Bureaus propose to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all construction permits remain open until bidding closes simultaneously on all construction permits.

Bidding will close simultaneously on all construction permits after the first round in which no new acceptable bids, or proactive waivers, are received. Thus, unless circumstances dictate otherwise, bidding will remain open on all construction permits until bidding stops on every construction permit.

¹⁵ See Section I.C. “Activity Rules,” *supra*.

¹⁶ See 47 C.F.R. § 1.2104(e).

However, the Bureaus propose to retain the discretion to exercise any of the following options during Auction No. 32:

1. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all construction permits after the first round in which no bidder submits a proactive waiver, or a new bid on any construction permit on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule.
2. Keep the auction open even if no new acceptable bids or proactive waivers are submitted. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.
3. Declare that the auction will end after a specified number of additional rounds (“special stopping rule”). If the Bureaus invoke this special stopping rule, it will accept bids in the specified final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds.

The Bureaus propose to exercise these options only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of construction permits where there is still a high level of bidding activity. We seek comment on these proposals.

III. Due Diligence

Potential bidders are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the AM broadcast facilities in this auction. **The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC permittee in the broadcast service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does a FCC construction permit or license constitute a guarantee of business success.** Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 32 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 32 are strongly encouraged to continue such research during the auction.

IV. Prohibition of Collusion

The prohibition of collusion set forth in Section 1.2105(c) of the Commission’s rules prohibits mutually exclusive applicants 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).¹⁷ For Auction No. 32, this prohibition became effective at the short-form application filing deadline on Tuesday, February 1, 2000, and will end on the post-auction down payment deadline, which

¹⁷ See *Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules*, Public Notice, 11 FCC Rcd 9645 (1995).

will be announced in a future public notice.¹⁸

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.¹⁹ 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.²⁰

V. Maintaining the Accuracy of FCC Form 175 Information

As noted in the *Auction No. 32 Filing Window Public Notice*²¹, after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Applicants should make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: auction32@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 32. The Bureaus request that parties format any attachments to electronic mail as Adobe[®] Acrobat[®] (pdf) or Microsoft[®] Word documents.

A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338-2850. Questions about other changes should be directed to Kenneth Burnley of the Auctions and Industry Analysis Division at (202) 418-0660.

VI. Conclusion

Comments are due on or before September 27, 2002, and reply comments are due on or before October 4, 2002. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureaus require that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: auction32@fcc.gov.²² The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 32 Comments. The Bureaus request that parties format any attachments to electronic mail as Adobe[®] Acrobat[®] (pdf) or Microsoft[®] Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554.

¹⁸ See 47 C.F.R. § 73.5002(d). In certain circumstances in Auction No. 32, however, the Commission allowed limited opportunities to settle or otherwise resolve mutual exclusivities by means of engineering solutions following the filing of FCC Form 175 applications. See *AM Auction No. 32 Mutually Exclusive Applicants Subject to Auction, Public Notice*, 15 FCC Rcd 20449 (2000). The three MX Groups listed in Attachment A to this Public Notice were ineligible for settlement. Further, the staff performed Section 307(b) analyses in MX Groups 20 and 38, finding that the proposals for, respectively, Sunrise Manor and Spring Valley, Nevada, were effectively Las Vegas proposals, and not entitled to first local service preferences as requested by the applicants. The staff then determined that Las Vegas was entitled to a dispositive Section 307(b) preference over the other competing communities and, therefore, that the mutually exclusive applications for the Las Vegas area in both groups must proceed to auction. See *Broadcast First Report and Order*, 13 FCC Rcd at 15965.

¹⁹ See 47 C.F.R. § 1.65.

²⁰ The Commission recently amended 47 C.F.R. § 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*, 16 FCC Rcd 17546 (2001).

²¹ See *Auction No. 32 Filing Window Public Notice*, 14 FCC Rcd at 19497.

²² Comments should not be filed using the Commission's Electronic Comment Filing System.

In addition, the Bureaus request that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.²³ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.²⁴ Other requirements pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission’s rules.²⁵

For further information concerning this proceeding, contact:

Audio Division:

Lisa Scanlan or Edward DeLaHunt at (202) 418-2700

Auctions and Industry Analysis Division:

Kenneth Burnley, Legal Branch at (202) 418-0660

Linda Sanderson, Operations Branch at (717) 338-2888

Requests for information can also be e-mailed to auctionsinquiry@fcc.gov.

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²³ See 47 C.F.R. §§ 1.1200(a), 1.1206.

²⁴ See 47 C.F.R. § 1.1206(b).

²⁵ *Id.*

ATTACHMENT A

AM Construction Permits

MX Group	Location	Frequency (kHz)	Bidding Units	Upfront Payment	Minimum Opening Bid	Applicants
AM20	Las Vegas, NV	1100	50,000	\$50,000	\$50,000	Kemp Communications, Inc.
AM20	Las Vegas, NV	1100	50,000	\$50,000	\$50,000	Lotus Broadcasting Corp.
AM20	Sunrise Manor, NV	1100	50,000	\$50,000	\$50,000	Palmetto Radio Group, Inc.
AM30	Taos, NM	1340	2,500	\$2,500	\$2,500	Alpine Broadcasting Limited Partnership
AM30	Taos, NM	1340	2,500	\$2,500	\$2,500	Richard L. Garcia and Darren Cardova
AM38	Spring Valley, NV	1590	50,000	\$50,000	\$50,000	Alvin Lou Media, Inc.
AM38	Las Vegas, NV	1590	50,000	\$50,000	\$50,000	Powell Meredith Communications Company