



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 03-1547
May 12, 2003

CLOSED BROADCAST AUCTION NO. 54 CONSTRUCTION PERMITS FOR NEW BROADCAST STATIONS SCHEDULED FOR JULY 23, 2003

Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

Report No. AUC-03-54-B (Auction No. 54)

I.	GENERAL INFORMATION	4
A.	Introduction	4
1.	Construction Permits to Be Auctioned	4
B.	Rules and Disclaimers	5
1.	Relevant Authority	5
2.	Prohibition of Collusion	5
3.	Due Diligence	7
4.	Bidder Alerts	8
5.	National Environmental Policy Act (NEPA) Requirements	8
C.	Auction Specifics	9
1.	Auction Date	9
2.	Auction Title	9
3.	Bidding Methodology	9
4.	Pre-Auction Dates and Deadlines	9
5.	Requirements for Participation	9
6.	General Contact Information	9
II.	SHORT-FORM APPLICATION (FCC FORM 175) REQUIREMENTS	10
A.	License Selection	11
B.	Ownership Disclosure Requirements (FCC Form 175 Exhibit A)	11
C.	Consortia And Joint Bidding Arrangements (FCC Form 175 Exhibit B)	11
C.	New Entrant Bidding Credit (Form 175 Exhibit C)	12

1.	Eligibility.....	12
2.	Application Requirements.....	13
3.	Bidding Credits	13
D.	Provisions Regarding Defaulters and Former Defaulters (Form 175 Exhibit D).....	14
E.	Installment Payments	15
F.	Other Information (FCC Form 175 Exhibits E and F)	15
G.	Minor Modifications to Short-Form Applications (FCC Form 175).....	15
H.	Maintaining Current Information in Short-Form Applications (FCC Form 175)	15
III.	PRE-AUCTION PROCEDURES.....	15
A.	Auction Seminar.....	15
B.	Short-Form Application (FCC Form 175) — Due June 20, 2003.....	16
1.	Electronic Filing.....	16
2.	Completion of the FCC Form 175.....	16
3.	Electronic Review of FCC Form 175	16
C.	Application Processing and Minor Corrections	17
D.	Upfront Payments — Due July 3, 2003	17
1.	Making Auction Payments by Wire Transfer.....	17
2.	FCC Form 159.....	18
3.	Amount of Upfront Payment.....	18
4.	Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments	19
E.	Auction Registration.....	20
F.	Remote Electronic Bidding	20
G.	Mock Auction.....	20
IV.	AUCTION EVENT	21
A.	Auction Structure	21
1.	Simultaneous Multiple Round Auction.....	21
2.	Maximum Eligibility and Activity Rules	21
3.	Activity Rule Waivers and Reducing Eligibility.....	21
4.	Auction Stopping Rules	22
5.	Auction Delay, Suspension, or Cancellation.....	23
B.	Bidding Procedures	23
1.	Round Structure.....	23
2.	Reserve Price or Minimum Opening Bid	24
3.	Minimum Acceptable Bids and Bid Increments.....	24
4.	High Bids.....	25
5.	Bidding.....	26
6.	Bid Removal and Bid Withdrawal	27
7.	Round Results	27

8.	Auction Announcements	27
9.	Maintaining the Accuracy of FCC Form 175 Information.....	27
V.	POST-AUCTION PROCEDURES	28
A.	Down Payments.....	28
B.	Long-Form Application.....	28
C.	Default and Disqualification	28
D.	Refund of Remaining Upfront Payment Balance	28
VI	Attachment A: Construction Permits to be Auctioned	A-1
VII.	Attachment B: FCC Auction Seminar Registration Form.....	B-1
VIII.	Attachment C: Electronic Filing and Review of the FCC Form 175	C-1
IX.	Attachment D: Guidelines for Completion of FCC Form 175 and Exhibits	D-1
X.	Attachment E: Auction-Specific Instructions for FCC Remittance Advice (FCC Form 159- February 2000 Edition)	E-1
XI.	Attachment F: Summary Listing of Documents from the Commission and the Wireless Telecommunications Bureau Addressing Application of the Anti-Collusion Rules.....	F-1

I. GENERAL INFORMATION

A. Introduction

This public notice announces the procedures and minimum opening bids for the upcoming auction of construction permits for new full power television (TV), low power television (LPTV), and FM broadcast stations (“Auction No. 54”), scheduled for July 23, 2003. On April 11, 2003, in accordance with the Balanced Budget Act of 1997,¹ the Media Bureau (“MB”) and the Wireless Telecommunications Bureau (“WTB”) (collectively, the “Bureaus”) released the *Auction No. 54 Comment Public Notice*,² seeking comment on the establishment of reserve prices and/or minimum opening bids for Auction No. 54. In addition, the Bureaus sought comment on a number of procedures to be used in Auction No. 54. The Bureaus received no comments in response to the *Auction No. 54 Comment Public Notice*.

1. Construction Permits to Be Auctioned

Auction No. 54 will include construction permits for one TV, two LPTV, and four FM broadcast stations. These broadcast stations are the subject of pending, mutually exclusive FCC Form 301 or Form 346 applications for construction permits for the referenced broadcast services, for which the Commission has not approved a settlement agreement that obviates the need for an auction. Pursuant to the *Broadcast First Report and Order*, participation in this auction is limited to the applicants identified in Attachment A.³ All applications within a mutually exclusive applicant group (“MX Group”) are directly mutually exclusive with one another, and therefore a single construction permit will be auctioned for each MX Group identified in Attachment A. Applicants will be eligible to bid on only those construction permits selected on their previously filed FCC Form 301 or Form 346. The minimum opening bids and upfront payments for these broadcast construction permits are also included in Attachment A.

As stated in the *Broadcast First Report and Order*, all pending mutually exclusive applications for broadcast services must be resolved through a system of competitive bidding.⁴ When two or more short-form applications (FCC Form 175) are accepted for filing within an MX Group, mutual exclusivity exits for auction purposes.⁵ Once mutual exclusivity exists for auction purposes, even if only one applicant within an MX Group submits an upfront payment, that applicant is required to submit a bid in order to obtain the construction permit.⁶

¹ Section 3002(a), Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 (1997) (“Balanced Budget Act”); 47 U.S.C. §309(j)(4)(F). 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).

² Closed Broadcast Auction Scheduled for July 23, 2003; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 03-1128 (rel. April 11, 2003) (“*Auction No. 54 Comment Public Notice*”).

³ Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, *First Report and Order*, 13 FCC Rcd 15920, 15923-25, ¶¶ 7-12 (1998) (“*Broadcast First Report and Order*”).
⁴ *Id.* at 15923-25, ¶¶ 7-12.

⁵ *Broadcast First Report and Order*, 13 FCC Rcd at 15978-80, ¶¶ 149-154. See also Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-252, *Second Report and Order*, 9 FCC Rcd 2348, 2376, ¶ 165 (1994).

⁶ Any applicant that submits a short-form application that is accepted for filing but fails to timely submit an upfront payment will retain its place in the MX Group but, having purchased no bidding eligibility, will not be eligible to bid.

B. Rules and Disclaimers

1. Relevant Authority

Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to broadcast auctions, contained in Title 47, Part 73 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, "terms") contained in this Public Notice; the *Auction No. 54 Comment Public Notice*,⁷ the *Broadcast First Report and Order*,⁸ the *Broadcast Reconsideration Order*,⁹ and the *New Entrant Bidding Credit Reconsideration Order*.¹⁰ Potential bidders must also familiarize themselves with Part 1, Subpart Q of the Commission's rules concerning competitive bidding proceedings.¹¹ In particular, broadcasters should also familiarize themselves with the Commission's recent amendments and clarifications to its general competitive bidding rules.¹²

The terms contained in the Commission's rules, relevant orders and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>. Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554, or may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. When ordering documents from Qualex, please provide the appropriate FCC document number (for example, FCC 98-194 for the *Broadcast First Report and Order* and FCC 99-74 for the *Broadcast Reconsideration Order*).

2. Prohibition of Collusion

To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same

⁷ See n.2, *supra*.

⁸ See n.3, *supra*.

⁹ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 14 FCC Rcd 8724 (1999) ("*Broadcast Reconsideration Order*").

¹⁰ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 14 FCC Rcd 12541 (1999) ("*New Entrant Bidding Credit Reconsideration Order*").

¹¹ See Part 1, Subpart Q of Title 47 of the Code of Federal Regulations.

¹² See, e.g., Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293 (2000) (*Part 1 Recon. Order and Part 1 Fifth Report and Order, Fourth Further Notice of Proposed Rule Making*); Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001); Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, *Eighth Report and Order*, 17 FCC Rcd 2962 (2002); Amendment of Part 1 of the Commission's Rules - Competitive Bidding Procedures, WT Docket No. 97-82, *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order*, FCC 03-98 (rel. May 8, 2003).

market from communicating with each other during the auction about bids, bidding strategies, or settlements.¹³ This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Bidders competing for construction permits in the same market are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.¹⁴

However, the Bureaus caution that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.¹⁵ The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for construction permits in the same market. In Auction No. 54, for example, the rule would apply to any applicants bidding for the same market (i.e., Victor, ID, MX Groups FM2 and FM3). Therefore, applicants that apply to bid for any construction permit in the same market would be precluded from communicating after filing the FCC Form 175 application with any other applicant for a construction permit in that same market. However, all applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their FCC Form 175.¹⁶ If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to Section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for the same market.¹⁷ By signing their FCC Form 175 applications, applicants are certifying their compliance with Sections 1.2105(c) and 73.5002.

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 significance to that application.¹⁸ Thus, Section 1.65 and 1.2105 require 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.¹⁹

¹³ See 47 C.F.R. §§ 1.2105(c), 73.5002.

¹⁴ See *In re Application of Nevada Wireless for a License to Provide 800 MHz Specialized Mobile Radio Service in the Farmington, NM-CO Economic Area (EA-155) Frequency Band A*, *Memorandum Opinion and Order*, 13 FCC Rcd 11973, 11977, ¶ 11 (1998) ("*Nevada Wireless*").

¹⁵ See *id.* at 11978.

¹⁶ See 47 C.F.R. § 1.2105(c).

¹⁷ See "Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, DA 95-2244, 11 FCC Rcd 9645 (1995) (rel. October 26, 1995).

¹⁸ See 47 C.F.R. § 1.65.

¹⁹ The Commission recently amended Section 1.2105 to require auction applicants to report prohibited communications in writing to the Commission immediately, but in no case later than five business days after the communication occurs. See *Seventh Report and Order*, 16 FCC Rcd at 17555.

A summary listing of documents from the Commission and the Bureaus addressing the application of the anti-collusion rules may be found in Attachment F.

3. Due Diligence

Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the 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 an FCC auction represents an opportunity to become an FCC permittee in the broadcast service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an 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. 54 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 54 are strongly encouraged to continue such research during the auction.

Bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may effect their ability to bid on, otherwise acquire, or make use of the construction permits available in Auction No. 54.

Potential bidders for the new full power television facility should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service.²⁰ In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service.²¹ In the *Class A Report and Order*, the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations.²² Given the Commission's ruling in the *Class A Report and Order*, the winning bidder in Auction No. 54, upon submission of its long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate the full power television station proposed in this auction. Information about the identity and location of Class A television stations is available from the Media Bureau's Consolidated Database System (CDBS) (public access available at: <http://www.fcc.gov/mb>) and on the Media Bureau's Class A television web page:

<http://www.fcc.gov/mb/video/files/classa.html>

Potential bidders for the new full power television facility are also reminded that full service television stations are in the process of converting from analog to digital operation and that stations may have pending applications to construct and operate digital television facilities, construction permits and/or licenses for such digital facilities. Bidders should investigate the impact such applications, permits and licenses may have on their ability to operate the facilities proposed in this auction.

Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help

²⁰ Pub. L. No. 106-113, 113 Stat. 1501 (1999), codified at 47 U.S.C. § 336(f).

²¹ See Establishment of a Class A Television Service, MM Docket No. 00-10, *Report and Order*, 15 FCC Rcd 6355 (2000) ("*Class A Report and Order*").

²² *Id.* at ¶¶ 37-38.

line at (202) 418-2662, or via e-mail at mbinfo@fcc.gov.

4. Bidder Alerts

All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a construction permit, and not in default on any payment for Commission construction permits or licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.²³ Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, construction permit or license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 54 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a “cold call” from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service (“IRS”), Federal Trade Commission (“FTC”), Securities and Exchange Commission (“SEC”), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals regarding Auction No. 54 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

5. National Environmental Policy Act (NEPA) Requirements

Permittees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA).²⁴ The construction of a broadcast facility is a federal action and the permittee must comply with the Commission's NEPA rules for each such facility.²⁵ The Commission's NEPA rules require among other things, that the permittee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The permittee must prepare environmental assessments for broadcast facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The permittee must

²³ See 47 C.F.R. § 1.2105.

²⁴ See Part 1, Subpart I of Title 47 of the Code of Federal Regulations.

²⁵ See 47 C.F.R. §§ 1.1305-1.1319.

also prepare environmental assessments for broadcast facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

C. Auction Specifics

1. Auction Date

Auction No. 54 will begin on Wednesday, July 23 2003. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

2. Auction Title

Auction No. 54 — Closed Broadcast

3. Bidding Methodology

The bidding methodology for Auction No. 54 will be simultaneous, multiple round bidding. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically.

4. Pre-Auction Dates and Deadlines

Auction Seminar	June 12, 2003
Short-Form (FCC Form 175) Filing Window Opens	June 12, 2003; 12:00 p.m. ET
Short-Form (FCC Form 175) Application Deadline	June 20, 2003; 6:00 p.m. ET
Upfront Payments (via wire transfer)	July 3, 2003; 6:00 p.m. ET
Mock Auction	July 18, 2003
Auction Begins	July 23, 2003

5. Requirements for Participation

Those wishing to participate in the auction must:

- Submit a short form application (FCC Form 175) electronically by 6:00 p.m. ET, June 20, 2003. No other application may be substituted for the FCC Form 175.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, July 3, 2003.
- Comply with all provisions outlined in this public notice and applicable Commission rules.

6. General Contact Information

GENERAL AUCTION INFORMATION

General Auction Questions
Seminar Registration

FCC Auctions Hotline
(888) 225-5322, Press Option #2
or direct (717) 338-2888
Hours of service: 8 a.m. – 5:30 p.m. ET

AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations

Auctions and Industry Analysis Division
Legal Branch (202) 418-0660

LICENSING INFORMATION

Rules, Policies, Regulations
Licensing Issues
Due Diligence
Incumbency Issues

Audio Division
(202) 418-2700

Video Division
(202) 418-1600

TECHNICAL SUPPORT

Electronic Filing
Automated Auction System

FCC Auctions Technical Support Hotline
(202) 414-1250 (Voice),
(202) 414-1255 (TTY)
Hours of service: Monday through Friday 8 a.m. to
6:00 p.m. ET

PAYMENT INFORMATION

Wire Transfers
Refunds

FCC Auctions Accounting Branch
(202) 418-1995
(202) 418-2843 (Fax)

TELEPHONIC BIDDING

Will be furnished only to qualified bidders

FCC COPY CONTRACTOR

Additional Copies of
Commission Documents

Qualex International
Portals II, 445 12th Street, SW, Room CY-B402
Washington, DC 20554
(202) 863-2893
(202) 863-2898 (Fax)
qualexint@aol.com (E-mail)

PRESS INFORMATION

Meribeth McCarrick (202) 418-0654

FCC FORMS

(800) 418-3676 (outside Washington, DC)
(202) 418-3676 (in the Washington Area)
<http://www.fcc.gov/formpage.html>

FCC INTERNET SITES

<http://www.fcc.gov>
<http://wireless.fcc.gov/auctions>
<http://www.fcc.gov/mb>

II. SHORT-FORM APPLICATION (FCC FORM 175) REQUIREMENTS

Guidelines for completion of the short-form application (FCC Form 175) are set forth in Attachment D to this public notice. The short-form application seeks the applicant's name and address, legal classification, status, new entrant bidding credit eligibility, identification of the construction permit(s) sought, the authorized bidders and contact persons. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license and, as discussed below in Section II.E (Provisions Regarding Defaulters and Former Defaulters), that they are not in

default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. To participate in Auction No. 54, no other application may be substituted for the FCC Form 175.

A. License Selection

We note that as part of the FCC Form 175 filing process, applicants must identify which construction permits they may bid on as part of the auction. While the electronic FCC Form 175 will allow for the selection of **all** construction permits, applicants should only select from among those construction permits that they selected on their previously filed FCC Form 301 or Form 346. Applicants that select construction permits on their FCC Form 175 that were not selected on the FCC Form 301 or Form 346 will not be permitted to bid on those construction permits during the auction.

B. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

The Commission indicated in the *Broadcast First Report and Order* that, for purposes of determining eligibility to participate in a broadcast auction, the uniform Part 1 ownership disclosure standards would apply. Specifically, in completing FCC Form 175, all applicants will be required to file an “Exhibit A” and provide information required by Sections 1.2105 and 1.2112 of the Commission’s rules, thus providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in Section 1.2112 of the Commission’s rules.²⁶

C. Consortia And Joint Bidding Arrangements (FCC Form 175 Exhibit B)

Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the construction permits being auctioned, including any agreements relating to post-auction market structure.²⁷ Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular construction permits on which they will or will not bid.²⁸ As discussed above, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue discussions with applicants for the same market after the deadline.²⁹ Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an “Exhibit B” to the FCC Form 175.

A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for construction permits in the same market provided that (i) the attributable interest holder certifies that it has

²⁶ Section 73.5002 of the Commission’s rules specifies the bidding procedures, certification requirements and the anti-collusion rules applicable to mutually exclusive applications for commercial broadcast services subject to auction. Subsection (b) of that rule requires the timely submission of short-form applications, along with all required certifications, information and exhibits pursuant to the provisions of 47 C.F.R. § 1.2105 (a). Section 1.2105, in turn, requires the disclosure on the short form of applicant ownership information as set forth in Section 1.2112. Note that both of the aforementioned Part 1 rule sections were revised in the *Part 1 Fifth Report and Order*.

²⁷ See 47 C.F.R. §§ 1.2105(a)(2)(viii), (c)(1).

²⁸ See 47 C.F.R. § 1.2105(a)(2)(ix).

²⁹ See Section I.B.2, *supra*.

not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants.³⁰ While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies. Such subject areas include, but are not limited to, issues such as management, sales, local marketing agreements, rebroadcast agreements, and other transactional agreements.

C. New Entrant Bidding Credit (Form 175 Exhibit C)

To fulfill its obligations under Section 309(j) and further its long-standing commitment to the diversification of broadcast facility ownership, the Commission adopted a tiered New Entrant Bidding Credit for broadcast auction applicants with no, or very few, other media interests.

1. Eligibility

The interests of the bidder, and of any individuals or entities with an attributable interest in the bidder, in other media of mass communications shall be considered when determining a bidder's eligibility for the New Entrant Bidding Credit.³¹ The bidder's attributable interests shall be determined as of the short-form application (FCC Form 175) filing deadline – June 20, 2003. Bidders intending to divest a media interest or make any other ownership changes, such as resignation of positional interests, in order to avoid attribution for purposes of qualifying for the New Entrant Bidding Credit must have consummated such divestment transactions or have completed such ownership changes by no later than the short-form application filing deadline – June 20, 2003.³²

Under traditional broadcast attribution rules, those entities or individuals with an attributable interest in a bidder include:

- All officers and directors of a corporate bidder;
- Any owner of 5 percent or more of the voting stock of a corporate bidder;
- All partners and limited partners of a partnership bidder, unless the limited partners are sufficiently insulated; and
- All members of a limited liability company, unless sufficiently insulated.³³

In cases where a bidder's spouse or close family member holds other media interests, such interests are not automatically attributable to the bidder. The Commission decides attribution issues in this context based on certain factors traditionally considered relevant.³⁴

³⁰ See 47 C.F.R. § 1.2105(c)(4)(i), (ii).

³¹ "Media of Mass Communication" includes both commercial and non-commercial broadcast stations.

³² The fact that, on June 20, 2003, a bidder has a pending or granted application to assign or transfer control of a media interest shall not be sufficient to avoid attribution. Bidders must have consummated the transaction by June 20, 2003 to avoid attribution.

³³ See 47 C.F.R. § 73.3555 Note 2.

³⁴ See *Clarification of Commission Policies Regarding Spousal Attribution*, 7 FCC Rcd 1920 (1992).

Bidders are also reminded that, by the *New Entrant Bidding Credit Reconsideration Order*, the Commission further refined the eligibility standards for the New Entrant Bidding Credit, judging it appropriate to attribute the media interests held by very substantial investors in, or creditors of, a bidder claiming new entrant status. Specifically, the attributable mass media interests held by an individual or entity with an equity and/or debt interest in a bidder shall be attributed to that bidder for purposes of determining its eligibility for the New Entrant Bidding Credit, if the equity and debt interests, in the aggregate, exceed 33 percent of the total asset value of the bidder, even if such an interest is non-voting.³⁵

Generally, media interests will be attributable for purposes of the New Entrant Bidding Credit to the same extent that such other media interests are considered attributable for purposes of the broadcast multiple ownership rules.³⁶ However, attributable interests held by a winning bidder in existing low power television, television translator or FM translator facilities will not be counted among the bidders' other mass media interests in determining its eligibility for a New Entrant Bidding Credit.³⁷ Full service noncommercial educational stations, on both reserved and non-reserved channels, are included among "media of mass communications" as defined in Section 73.5008(b).³⁸ A medium of mass communications is defined in 47 C.F.R § 73.5008 (b) and includes non-commercial broadcast stations.

2. Application Requirements

In addition to the ownership information required on Exhibit A, applicants are required to file supporting documentation on Exhibit C to their FCC Form 175 applications to establish that they satisfy the eligibility requirements to qualify for a New Entrant Bidding Credit.³⁹ In those cases where a New Entrant Bidding Credit is being sought, a certification under penalty of perjury must be set forth in Exhibit C. An applicant claiming that it qualifies for a 35 percent new entrant bidding credit must provide a certification, under penalty of perjury, that neither it nor any of its attributable interest holders have any attributable interests in any other media of mass communications. An applicant claiming that it qualifies for a 25 percent new entrant bidding credit must provide a certification, under penalty of perjury, that neither it nor any of its attributable interest holders have any attributable interests in more than three media of mass communications, and must identify and describe such media of mass communications.

3. Bidding Credits

Applicants that qualify for the New Entrant Bidding Credit, as set forth in 47 C.F.R. § 73.5007, are eligible for a bidding credit that represents the amount by which a bidder's winning bid is discounted. The size of a New Entrant Bidding Credit depends on the number of ownership interests in other media of mass communications that are attributable to the bidder-entity and its attributable interest-holders:

³⁵ See 47 C.F.R. § 73.5008.

³⁶ Further, *any* bidder asserting new entrant status must have *de facto* as well as *de jure* control of the entity claiming the bidding credit. 47 C.F.R. § 73.5007. Typically, *de jure* control is evidenced by ownership of at least 50.1 percent of an entity's voting stock or equivalent level of interest in cases where the bidder is not a corporate entity. *De facto* control is determined on a case-by-case basis.

³⁷ *Broadcast Reconsideration Order* at ¶ 75; 47 C.F.R § 73.5007.

³⁸ See *Minnesota Christian Broadcasters, Inc.*, 18 FCC Rcd 614 (2003).

³⁹ See 47 C.F.R. §§ 1.2105, 73.5007, 73.5008.

- A 35 percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has no attributable interest in any other media of mass communications, as defined in 47 C.F.R. § 73.5008;
- A 25 percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has an attributable interest in no more than three mass media facilities, as defined in 47 C.F.R. § 73.5008;
- No bidding credit will be given if any of the commonly owned mass media facilities serve the same area as the proposed broadcast station, as defined in 47 C.F.R. § 73.5007, or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, has attributable interests in more than three mass media facilities.

Bidding credits are not cumulative; qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both. Attributable interests are defined in 47 C.F.R. § 73.3555 and Note 2 of that section. Bidders should note that unjust enrichment provisions apply to a winning bidder that utilizes a bidding credit and subsequently seeks to assign or transfer control of its license or construction permit to an entity not qualifying for the same level of bidding credit.⁴⁰

D. Provisions Regarding Defaulters and Former Defaulters (Form 175 Exhibit D)

Each applicant must provide a certification on its FCC Form 175 application, made under penalty of perjury, that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency.⁴¹ In addition, each applicant must provide a certification on its FCC Form 175 application, made under penalty of perjury, indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interest, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any federal agency.⁴² The applicant must provide such information for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110 of the Commission’s rules (as amended in the *Part 1 Fifth Report and Order*).⁴³ **Applicants must include this statement as Exhibit D of the FCC Form 175.** If any of an applicant’s controlling interest holders or their affiliates, as defined by Section 1.2110 of the Commission’s rules, have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, the applicant must include such information as part of the same certification statement.⁴⁴ Prospective bidders are reminded that the statements must be made under penalty of perjury and, further, submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

“Former defaulters” — *i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies — are eligible to bid in Auction No. 54, provided that they are otherwise qualified. However, as discussed *infra* in

⁴⁰ See 47 C.F.R. § 73.5007(c).

⁴¹ 47 C.F.R. § 1.2105(a)(2)(x).

⁴² 47 C.F.R. § 1.2105(a)(2)(xi).

⁴³ 47 C.F.R. § 1.2105(a)(2)(xi).

⁴⁴ See *Part 1 Fifth Report and Order*, ¶ 42.

Section III.D.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.⁴⁵

E. Installment Payments

Installment payment plans will not be available in Auction No. 54.

F. Other Information (FCC Form 175 Exhibits E and F)

Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(b)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions. Applicants must specify the file number of the pending FCC Form 301 or Form 346 on Exhibit F (Miscellaneous Information). Applicants wishing to submit additional information may do so on Exhibit F (Miscellaneous Information) to the FCC Form 175.

G. Minor Modifications to Short-Form Applications (FCC Form 175)

After the short-form application filing deadline (June 20, 2003), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their construction permit selections, change the certifying official, changes in ownership of the applicant that would constitute a change of control of the applicant, or changes affecting eligibility for the new entrant bidding credit).⁴⁶ Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and 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: au54@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 54. The Bureau requests 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.

H. Maintaining Current Information in Short-Form Applications (FCC Form 175)

Applicants have an obligation under 47 C.F.R. §1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 C.F.R. § 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. PRE-AUCTION PROCEDURES

A. Auction Seminar

On June 12, 2003 the FCC will sponsor a free seminar for Auction No. 54 at the Federal Communications Commission, located at 445 12th Street, S.W., Washington, D.C. The seminar will provide attendees with

⁴⁵ 47 C.F.R. § 1.2106(a).

⁴⁶ See 47 C.F.R. § 1.2105.

information about pre-auction procedures, conduct of the auction, the FCC Automated Auction System, and the broadcast service and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

To register, complete the registration form found in Attachment B and submit it by Tuesday, June 10, 2003. Registrations are accepted on a first-come, first-served basis.

B. Short-Form Application (FCC Form 175) — Due June 20, 2003

In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6:00 p.m. ET on June 20, 2003. Late applications will not be accepted.

There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* Part III.D, *infra*.

1. Electronic Filing

Applicants must file their FCC Form 175 applications electronically.⁴⁷ Applications may generally be filed at any time beginning at 12:00 noon ET on June 12, 2003, until 6:00 p.m. ET on June 20, 2003. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on June 20, 2003.

Applicants must press the “SUBMIT Application” button on the “Submission” page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C. Technical support is available at (202) 414-1250 (voice) or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 AM to 6:00 PM ET. In order to provide better service to the public, *all calls to the hotline are recorded*.

Applicants can also contact Technical Support via e-mail. To obtain the address, click the **Support** tab on the Form 175 Homepage.

2. Completion of the FCC Form 175

Applicants should carefully review 47 C.F.R. §§ 1.2105 and 73.5002, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of this public notice. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D to this public notice provide information on the required attachments and appropriate formats.

3. Electronic Review of FCC Form 175

The FCC Form 175 electronic review system may be used to locate and print applicants’ FCC Form 175 information. There is no fee for accessing this system. *See* Attachment C for details on accessing the review system.

Applicants may also view other applicants’ completed FCC Form 175s after the filing deadline has passed,

⁴⁷ *See* 47 C.F.R. § 1.2105(a).

and the FCC has issued a public notice explaining the status of the applications. NOTE: Applicants should not include sensitive information (*i.e.*, Taxpayer Identification Number or Employer Identification Number) on any exhibits to their FCC Form 175 applications.

C. Application Processing and Minor Corrections

After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) those applications accepted for filing (including FCC account numbers and the construction permits for which they applied); (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

As described more fully in the Commission's rules, after the June 20, 2003 short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their construction permit selections, change the certifying official, change control of the applicant, or change New Entrant Bidding Credit eligibility).⁴⁸

D. Upfront Payments — Due July 3, 2003

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on July 3, 2003.

Please note that:

- All payments must be made in U.S. dollars;
- All payments must be made by wire transfer;
- Upfront payments for Auction No. 54 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments;
- Failure to deliver the upfront payment by the July 3, 2003, deadline will result in dismissal of the application and disqualification from participation in the auction.

1. Making Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on July 3, 2003. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

⁴⁸ See 47 C.F.R. §§ 1.2105, 73.5002(c); see also *Two Way Radio of Carolina, Inc., Memorandum, Opinion and Order*, 14 FCC Rcd 12035 (1999).

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BENEFICIARY: FCC/Account # 910-0180
OBI Field: (Skip one space between each information item)
“AUCTIONPAY”
FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 11 and/or 21)
PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: A54U)
FCC CODE 1: (same as FCC Form 159, block 28A: “54”)
PAYER NAME: (same as FCC Form 159, block 2)
LOCKBOX NO.: # 358420

NOTE: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 209-6045 **at least one hour before** placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write “Wire Transfer - Auction Payment for Auction Event No. 54.” **Bidders should confirm the receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.**

2. FCC Form 159

A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/00) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/00) is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E to this public notice. An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 must be completed electronically and must be filed with Mellon Bank via facsimile.

3. Amount of Upfront Payment

The Commission delegated to the Bureaus the authority and discretion to determine appropriate upfront payment(s) for each auction.⁴⁹ In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that “former defaulters,” *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments fifty percent greater than non-“former defaulters.”⁵⁰ For purposes of this calculation, the “applicant” includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by Section 1.2110 of the Commission’s rules (as amended in the *Part 1 Fifth Report and Order*).⁵¹

In the *Auction No. 54 Comment Public Notice*, we proposed that the amount of the upfront payment would determine the number of bidding units on which a bidder may place bids.⁵² In order to bid on a construction

⁴⁹ Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Proceeding, WT Docket No. 97-82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd 5686, 5697-5698, ¶ 16 (1997). *See also Broadcast First Report and Order*, 13 FCC Rcd at 15967-68, ¶ 127-128.

⁵⁰ *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17, ¶¶ 40-42 (2000); 47 C.F.R. § 1.2106(a); *see also* 47 C.F.R. § 1.2105(a)(2)(xi).

⁵¹ *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17, ¶¶ 40-42.

⁵² *Auction No. 54 Comment Public Notice* at 2-3.

permit, otherwise qualified bidders that applied for that construction permit on FCC Form 175 must have an eligibility level that meets the number of bidding units assigned to that construction permit. (While the electronic FCC Form 175 allows for the selection of all construction permits, applicants should only select from among those construction permits that they selected on their previously filed FCC Form 301 or Form 346).⁵³ At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one construction permit applied for on FCC Form 175, or else the applicant will not be eligible to participate in the auction. No comments were received; therefore, we adopt our proposal. The specific upfront payments and bidding units for each construction permit are set forth in Attachment A of this Public Notice.

In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to be active (bidding units associated with construction permits on which the bidder has the standing high bid from the previous round and construction permits on which the bidder places a bid in the current round) in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all construction permits on which it seeks to bid in any given round. **Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.**

Former defaulters should calculate their upfront payment for all construction permits by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

NOTE: An applicant's actual bidding in any round will be limited by the bidding units reflected in its upfront payment, in conjunction with the selections made on the FCC Form 175.

4. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

The Commission will use wire transfers for all Auction No. 54 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser or Tim Dates, at (202) 418-2843 by July 3, 2003. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at 202-418-0578 or Tim Dates at (202) 418-0496.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
FCC Registration Number (FRN)
Taxpayer Identification Number (see below)
Correspondent Bank (if applicable)

⁵³ Applicants that select construction permits on their FCC Form 175 that were not selected on the FCC Form 301 or Form 346 will not be permitted to bid on those construction permits during the auction.

ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Section V.D., *infra*.

E. Auction Registration

Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and that have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the construction permits for which they applied.

All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing the confidential bidder identification number (BIN) and the other containing the SecurID cards, both of which are required to place bids. **These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.**

Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, July 16, 2003, should contact the Auctions Hotline at (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC Headquarters located at 445 12th Street, S.W., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically. In either case, **each authorized bidder** must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 54. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175.

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

G. Mock Auction

All qualified bidders will be eligible to participate in a mock auction on Friday, July 18, 2003. The mock

auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. AUCTION EVENT

The first round of bidding for Auction No. 54 will begin on Wednesday, July 23, 2003. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

1. Simultaneous Multiple Round Auction

In the *Auction No. 54 Comment Public Notice*, we proposed to award all the construction permits in Auction No. 54 in a simultaneous multiple round auction.⁵⁴ We received no comments on this issue. We therefore conclude that it is operationally feasible and appropriate to auction the construction permits through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all construction permits in successive rounds of bidding.

2. Maximum Eligibility and Activity Rules

In the *Auction No. 54 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the maximum initial eligibility (as measured in bidding units) for each bidder.⁵⁵ No comments were received concerning the eligibility rule.

For Auction No. 54, we will adopt our proposal. The amount of the upfront payment submitted by a bidder determines the maximum initial eligibility (in bidding units) for each bidder. Note again that each construction permit is assigned a specific number of bidding units equal to the upfront payments listed in Attachment A on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, prospective bidders are cautioned to calculate their upfront payments carefully. **The total upfront payment does not affect the total dollar amount a bidder may bid on any given construction permit.**

In addition, we received no comments on our proposal for a single stage auction. Therefore, in order to ensure that the auction closes within a reasonable period of time, we adopt our proposal with the following activity requirement: a bidder is required to be active on 100 percent of its current eligibility during each round of the auction. That is a bidder must either place a bid and/or be the standing high bidder during each round of the auction.

Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a permanent reduction in the bidder's bidding eligibility, possibly eliminating them from the auction.

3. Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 54 Comment Public Notice*, we proposed that each bidder in the auction would be provided three activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction.⁵⁶ We received no comments on this issue.

⁵⁴ *Auction No. 54 Comment Public Notice* at 2.

⁵⁵ *Id.* at 2-3.

⁵⁶ *Id.* at 3-4.

Based upon our experience in previous auctions, **we adopt our proposal that each bidder be provided three activity rule waivers that may be used in any round during the course of the auction.** 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 level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. We are satisfied that our practice of providing three waivers over the course of the auction provides a sufficient number of waivers and flexibility to the bidders while safeguarding the integrity of the auction.

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 round where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers remaining; or (2) bidders eligible to bid on more than one construction permit override the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder that is eligible to bid on only one construction permit has no activity rule waivers available, the bidder's eligibility will be reduced, eliminating it from the auction. **If a bidder that is eligible to bid on more than one construction permit has no waivers remaining and does not satisfy the required activity level, its current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.**

A bidder that is eligible to bid on more than one construction permit and has insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the “reduce eligibility” function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

Finally, 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 bids will not keep the auction open. **Note: Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.**

4. Auction Stopping Rules

For Auction No. 54, the Bureaus proposed to employ a simultaneous stopping rule.⁵⁷ Under this rule, bidding will remain open on all construction permits until bidding stops on every construction permit. The auction will close for all construction permits when one round passes during which no bidder submits a new acceptable bid on any construction permit or applies a proactive waiver. After the first such round, bidding closes simultaneously on all construction permits.

The Bureaus also sought comment on a modified version of the stopping rule. The modified version of the 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.

The Bureaus further proposed retaining the discretion to keep an auction open even if no new bids or

⁵⁷ *Id.* at 7-8.

proactive waivers are submitted. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

In addition, we proposed that the Bureaus reserve the right to declare that the auction will end after a designated number of additional rounds (“special stopping rule”). If the Bureaus invoke this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. We proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time.⁵⁸ 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 adjusting the minimum acceptable bids and bid increments for construction permits.

We adopt all of the above proposals concerning the auction stopping rules. Auction No. 54 will begin under the simultaneous stopping rule, and the Bureaus will retain the discretion to invoke the other versions of the stopping rule. We believe that these stopping rules are most appropriate for Auction No. 54, because our experience in prior auctions demonstrates that the stopping rules balance the interests of administrative efficiency and maximum bidder participation.

5. Auction Delay, Suspension, or Cancellation

In the *Auction No. 54 Comment Public Notice*, we proposed 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 competitive conduct of competitive bidding.⁵⁹

Because this approach has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed auction cancellation rules. 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 competitive conduct of competitive bidding. 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.

B. Bidding Procedures

1. Round Structure

The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round result formats and locations will also be included in the qualified bidders public notice.

⁵⁸ *Id.*

⁵⁹ *Id.* at 4.

The FCC has 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.

2. Reserve Price or Minimum Opening Bid

Background. The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses or construction permits are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.⁶⁰ 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.⁶¹ Among other factors, the Bureaus must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned.⁶² The Commission concluded that the Bureaus should have the discretion to employ either or both of these mechanisms for future auctions.⁶³

In the *Auction No. 54 Comment Public Notice*, the Bureaus proposed to establish minimum opening bids for Auction No. 54 and to retain discretion to lower the minimum opening bids.⁶⁴ Specifically, for Auction No. 54, the Bureaus proposed calculating the minimum opening bid based on the potential value of the spectrum, including the type of service, proposed population coverage, market size, industry cash flow data and recent broadcast transactions. We received no comments on this issue, therefore, we adopt our proposal. The specific minimum opening bids for each construction permit are set forth in Attachment A of this public notice.

The minimum opening bids we adopt for Auction No. 54 are reducible at the discretion of the Bureaus. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any requests to reduce the minimum opening bid on specific construction permits.

3. Minimum Acceptable Bids and Bid Increments

In the *Auction No. 54 Comment Public Notice*, we proposed to use a fixed percentage to calculate minimum acceptable bids.⁶⁵ We further proposed to retain the discretion to change the minimum acceptable bids and

⁶⁰ Balanced Budget Act, *see* note 1, *supra*.

⁶¹ *See* Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd at 141, 455-456 (1998) ("*Part 1 Third Report and Order*"). *See also* *Broadcast First Report and Order*, 13 FCC Rcd at 15971, ¶ 134. The Commission has concluded that either or both of these mechanisms may be employed for auctions and has delegated the requisite authority to make determinations regarding the appropriateness of employing either or both.

⁶² *Part 1 Third Report and Order*, 13 FCC Rcd at 455-456; *Broadcast First Report and Order*, 13 FCC Rcd at 15971, ¶ 134.

⁶³ *Part 1 Third Report and Order*, 13 FCC Rcd at 455-456.

⁶⁴ *Auction No. 54 Comment Public Notice* at 5.

⁶⁵ *Id* at 5-6.

bid increments if circumstances so dictate.⁶⁶ We received no comment on this issue.

In each round, each eligible bidder will be able to place a bid on a particular construction permit for which it applied in any of nine different amounts.⁶⁷ The FCC Automated Auction System will list the nine bid amounts for each construction permit.

We adopt the proposal contained in the *Auction No. 54 Comment Public Notice*. Once there is a standing high bid on a construction permit, the FCC Automated Auction 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** – *i.e.*, $\text{bid increment} = (\text{minimum acceptable bid}) - (\text{standing high bid})$. 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.).

For Auction No. 54, we will use a 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 increment percentage — *i.e.*, $(\text{standing high bid}) * (1.10)$. 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.

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. That is, the increment used to calculate additional bid amounts = $(\text{minimum opening bid})(1 + \text{percentage increment})\{\text{rounded}\} - (\text{minimum opening bid})$. Therefore, when the percentage increment equals 0.1 (*i.e.*, 10%), the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent higher; the third, thirty percent higher; etc.

The Bureaus retain the discretion to compute the minimum acceptable bids through other methodologies if they determine circumstances so dictate. Advanced notice of the Bureaus' decision to do so will be announced via the FCC Automated Auction System.

4. High Bids

At the end of a bidding round, the FCC Automated Auction System determines the high bid for each construction permit based on the highest gross bid amount received for each construction permit. A high bid from a previous round is sometimes referred to as a “standing high bid.” A “standing 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. Bidders are reminded that standing high bids confer bidding activity.⁶⁸

⁶⁶ *Id.*

⁶⁷ Bidders must have sufficient eligibility to place a bid on the particular construction permit. *See* Section III.D.3. (“Upfront Payments and Initial Maximum Eligibility”), *supra*.

⁶⁸ *See* Section IV.A.2 “Activity Rules,” *supra*.

In the *Auction No. 54 Comment Public Notices*,⁶⁹ the Bureaus proposed to use a random number generator to select a high bid in the event of identical high bids on a construction permit in a given round (*i.e.*, tied bids). No commenter opposed the Bureaus' proposal. Therefore, the Bureaus adopt their proposal. A Sybase® SQL pseudo-random number generator based on the Lecuyer algorithm will be used to assign a random number to each bid. The tied bid having the highest random number will become the standing high bid. The remaining bidders, as well as the high bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in a subsequent round, the high bid from the previous round will win the construction permit. If any bids are received on the construction permit in a subsequent round, the high bid will once again be determined on the highest gross bid amount received for the construction permit.

5. Bidding

During a bidding round, a bidder may submit bids for any or all construction permits selected on its FCC Form 175 (subject to its eligibility based on previously filed FCC Forms 301 or Form 346), remove bids placed in the same bidding round, or if eligible to bid on more than one construction permit, permanently reduce eligibility. Bidders also have the option of making multiple submissions in each round. If a bidder submits multiple bids for a single construction permit in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with construction permits for which the bidder has removed its bid do not count towards the bidder's activity at the close of the round.

Please note that all bidding will take place remotely either through the FCC Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 54.

A bidder's ability to bid on specific construction permits in the first round of the auction is determined by two factors: (1) the construction permits applied for on FCC Form 175 (applicants are eligible to bid on only those construction permits selected on their previously filed FCC Form 301 or Form 346); and (2) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those construction permits for which the bidder applied on its FCC Form 175.

In order to access the bidding functions of the FCC Automated Auction System, bidders must be logged in during the bidding round using the bidder identification number provided in the registration materials, and the tokencode generated by the SecurID card. Bidders are strongly encouraged to print bid confirmations for each round after they have completed all of their activity for that round.

In each round, eligible bidders will be able to place bids on a given construction permit in any of nine different amounts.⁷⁰ For each construction permit, the FCC Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Automated Auction System also includes an import function that allows bidders to upload text files containing bid information.

⁶⁹ *Auction No. 54 Comment Public Notice* at 6.

⁷⁰ Bidders must have sufficient eligibility to place a bid on the particular license. See Section III.D.3 "Amount of Upfront Payment," *infra*.

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. Once there is a standing high bid on a construction permit, the FCC Automated Auction System will calculate a minimum acceptable bid for that construction permit for the following round, as described in Section IV.B.3.

6. Bid Removal and Bid Withdrawal

In the *Auction No. 54 Comment Public Notice*, we proposed bid removal and bid withdrawal procedures.⁷¹ With respect to bid withdrawals, we proposed that bidders not be permitted to withdraw bids in any round. We received no comments on this issue. Therefore, the Bureaus adopt their proposal and will not permit bidders to withdrawal bids in any round during the auction.

Procedures. Before the close of a bidding round, a bidder has the option of removing any bids 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. Removing a bid will affect a bidder’s activity for the round in which it is removed, *i.e.*, a bid that is subsequently removed does not count toward the bidder’s activity requirement. Once a round closes, a bidder may no longer remove a bid. No comments were received on this issue, therefore, we adopt these procedures for Auction No. 54.

7. Round Results

Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureaus will compile reports of all bids placed, current high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 54 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

8. Auction Announcements

The FCC will use auction announcements to announce items such as schedule changes. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

9. Maintaining the Accuracy of FCC Form 175 Information

As noted in Section II.H., 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 must 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: auction54@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 54. The Bureaus requests 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.

⁷¹ *Auction No. 54 Comment Public Notice* at 7.

V. POST-AUCTION PROCEDURES

A. Down Payments

After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders and down payments due.

Within ten business days after release of the auction closing public notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 54 to 20 percent of its net winning bid (actual bids less any applicable bidding credit).⁷²

B. Long-Form Application

The auction closing public notice will specify procedures for submitting any necessary minor amendments to the winning bidder's previously filed long form application. In accordance with Commission rules, the winning bidder may not submit amendments that constitute a major change from either the technical or legal proposal specified in the previously filed long form application. Given the length of time that the long form applications have been pending, the winning bidder should take into account any relevant rule changes in amending their long form applications on file.

C. Default and Disqualification

Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 C.F.R. § 1.2104(g)(2). In such event the Commission will offer the construction permit to the next highest bidder (in descending order) at their final bid.⁷³ In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses or construction permits held by the applicant.⁷⁴

D. Refund of Remaining Upfront Payment Balance

All applicants that submitted upfront payments but were not winning bidders for a construction permit in Auction No. 54 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number ("TIN") and FCC Registration Number (FRN). Send refund request to:

Federal Communications Commission
Financial Operations Center

⁷² See 47 C.F.R. §§ 1.2107(b) and 73.5003.

⁷³ See 47 C.F.R. § 1.2109(b) and (c). See also *Broadcast First Report and Order*, 13 FCC Red at 15952.

⁷⁴ See 47 C.F.R. § 1.2109(d).

Auctions Accounting Group
Gail Glasser or Tim Dates
445 12th Street, S.W., Room 1-C863
Washington, D.C. 20554

Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418-2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

NOTE: Refund processing generally takes up to two weeks to complete.
Bidders with questions about refunds should contact Gail Glasser at (202) 418-0578 or Tim Dates at (202) 418-0496.

Media Contact:

Meribeth McCarrick at (202) 418-0654

Auctions and Industry Analysis Division:

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

Lyle Ishida, Operations Branch at (202) 418-0660

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

Audio Division:

Lisa Scanlan at (202) 418-2700

Video Division:

Shaun Maher at (202) 418-1600

- FCC -

VI ATTACHMENT A

Construction Permits to be Auctioned (Place holder for Excel file Attachment A)

VII. ATTACHMENT B

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 54

The FCC will sponsor a one-day seminar for Auction No. 54 applicants. The seminar is free of charge and will provide information about pre-auction procedures, service and auction rules, conduct of the auction, and the FCC Automated Auction System.

Representatives from each company may attend on a reservation basis, first-come first-served basis until room capacity is filled. The seminar will be held:

Thursday, June 12, 2003
Federal Communications Commission
445 12th Street S.W. (Room 5-B516)
Washington, DC 20554

Registration: 9:30 a.m. - 10:00 a.m.

Seminar: 10:00 a.m. - 2:00 p.m.

If hotel accommodations are needed

Please contact 1-888-225-5322 (option #2) for a list of hotels in the area

To register, complete the form below and
return no later than

Tuesday, June 10, 2003, by fax to:

FCC Auction 54
Auctions Operations Branch
1270 Fairfield Road
Gettysburg, PA 17325-7245
FAX: 717-338-2850
Phone: 717-338-2888

I/We will attend the Auction No. 54 Seminar, scheduled for Thursday, June 12, 2003.

Name of attendee: _____

Name of attendee: _____

Company name: _____

Company Address: _____

Phone: _____ Fax: _____

VIII. ATTACHMENT C

ELECTRONIC FILING AND REVIEW OF THE FCC FORM 175

Applicants must submit their FCC Form 175 applications electronically. The FCC recommends submitting your FCC Form 175 via the Internet. As a contingency, you can submit via the FCC Wide-Area Network. FCC Form 175 applications must be submitted and confirmed by **6:00 p.m. ET on Friday, June 20, 2003**. Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants must click the **SUBMIT Application** button on the *Submission* page to successfully submit their FCC Form 175. The electronic filing process consists of an initial filing period and a resubmission period to make minor corrections. During each filing period, submitted applications may be updated and amended multiple times until the filing deadline.

A. Software Requirements

Applicants will need to meet the following minimum software requirements:

- Web Browser, either of the following:
 - ◆ Microsoft® Internet Explorer 4.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.3.0 installed.
 - ◆ Netscape® Communicator™ 4.0 or higher, with Java Plug-In Version 1.3.0.

Java Plug-In Version 1.3.0 is available for downloading at
https://wtbjag1w.fcc.gov/ieplugin/j2re-1_3_0_02-win.exe

- PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)
- If you wish to use the download feature on the Search Results page, you will need a .tar file extraction utility, e.g., Winzip (available at <http://www.winzip.com>) or Pkzip for Windows (available at <http://www.pkware.com/shareware>).

B. Submitting FCC Form 175 Applications

You can submit FCC Form 175 applications electronically via the Internet. Start your web browser and point it to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location). On the FCC Auctions page, click **Form 175 Application & Search** to obtain the Form 175 Homepage.

Note: As a contingency, you may submit FCC Form 175 application amendments via the FCC Wide Area Network, using Dial-Up Networking. To access the Wide Area Network, configure your dial-up network to dial either **202-408-7835** or **717-338-0735**. These phone numbers are located in the Washington, DC, and Gettysburg, PA, metropolitan areas, respectively. Thus, they may be long-distance calls, depending on where you reside.

1. Logging On

The Form 175 Homepage has a Form 175 Logon area at the top right. This area provides fields that let you identify yourself to the system. In these fields, type your assigned FRN (*without* the hyphens) and the password you created in CORES, respectively, then click the **Logon** button.

Once you have logged on with your FRN, you can click the **New Form** link to obtain the *Profile* page for the auction.

2. Uploading Attachments

When uploading attachments from the Form 175 *Attachments* page, you may use a variety of file formats--including Word 2000 or earlier, WordPerfect 6.x or earlier, Adobe PDF, and ASCII text--and you should verify that the files contain all exhibit information. Also note the following about files to be uploaded:

- Files may be no larger than 1.5 Mb.
- Graphics files (e.g., *.bmp*, *.tiff*, *.jpg*) and spreadsheets (e.g., Excel, Lotus) are not supported.
- Word processing files that are uploaded may not contain graphic images.
- You may include hyphens (-) and underscore (_) symbols in the name of a file to be uploaded, but do not use other punctuation marks or blank spaces. The FCC system will not be able to convert that file.
- The path to a file (i.e., the file name and its directory) must not exceed 60 characters.
- Do not upload a password-protected file. The FCC system will not be able to open it or convert it.
- Do not include your TIN in any attachment to be uploaded. Contents of attachments become public once the Status PN is released.

The system converts each uploaded attachment to PDF format. (The conversion process generally completes within 30 minutes.) Until the system has converted your file to PDF format, the description field shows *Not converted*.

Repeat this procedure for each additional attachment you want to add. When you have finished adding attachments, click the **Continue to CERTIFICATION** button to obtain the *Certification* page.

a. Unreadable Attachment Files

If you are unable to read an attachment file after it has been converted, please do the following:

1. Re-upload the attachment.
2. If the file still has not been converted properly, then simplify the formatting of the file.

For example, if you are using a Table structure in a WordPerfect document, remove the Table structure and leave the contents of the table, then re-upload the attachment.

After you have successfully re-uploaded an attachment, please delete the old, unreadable attachment files using their **Delete** links.

3. Completing the Submission Procedure

Applicants must press the **SUBMIT Application** button on the *Submission* page to successfully submit their FCC Form 175. Pressing **SUBMIT Application** produces a *Submission Confirmation* page showing the assigned FCC Account Number. During each filing period, submitted applications may be updated and amended multiple times until the filing deadline.

C. Reviewing FCC Form 175 Applications

Once the FCC has completed the 175 Review process, you can view FCC Form 175 applications electronically by searching for them in the FCC database. Start your web browser and point it to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location). Click the **Form 175 Application & Search** link, then click the **SEARCH** link at the top of the page. When the *Form 175 Search* page appears, select the search criteria you want and then click the **Submit** button.

D. Help

For technical assistance with using FCC software, contact the FCC Technical Support Hotline at (202) 414-1250 (V) or (202) 414-1255 (TTY). The FCC Technical Support Hotline is generally available Monday through Friday from 8 a.m. to 6 p.m. ET. *All calls to the FCC Technical Support Hotline are recorded.*

You can also contact Technical Support via e-mail. To obtain the address, click the **Support** tab on the Form 175 Homepage.

IX. ATTACHMENT D

GUIDELINES FOR COMPLETION OF FCC FORM 175 AND EXHIBITS

A. FCC Form 175

Because of the significance of the FCC Form 175 application to the auction, bidders should especially note the following:

Auction Number: The Closed Broadcast auction is Auction No. 54.

Applicant: Name given is used as your bidder name in the auction.

Address: Applicants must provide a street address (not a Post Office box number) for the applicant, suitable for mail or private parcel delivery.

Legal Classification: Applicants must indicate their legal classification. The FCC Form 175 requires the applicant to classify itself as an individual, joint venture, partnership, trust, corporation, consortium, association, limited liability company (LLC) or government entity.

Applicant Status: Applicants are requested to indicate their status as a rural telephone company, minority- and/or women-owned business, so that the FCC can monitor its performance in promoting economic opportunities for these designated entities.

Contact person/address: If the Commission wishes to communicate with the applicant by telephone or fax, those communications will be directed to the contact person identified on the FCC Form 175. Space is provided for an address, telephone number, fax number, and e-mail address. **All written communication and registration information will be directed to the applicant's contact person at the address specified on the FCC Form 175.** Applicants must provide a street address for the contact person; **no P.O. Box addresses may be used.**

Authorized Bidders: Applicants must list the name(s) of the person(s) (no more than three) authorized to represent them at the auction. Only those individuals listed on the FCC Form 175 will be authorized to place bids for the applicant during the auction.

Bidding Credit Eligibility: Applicants that qualify for the New Entrant Bidding Credit must select the applicable bidding credit (25 percent or 35 percent) in the bidding credit eligibility item on the Form 175. Applicants are advised that this is the sole opportunity to select "New Entrant" status and claim a bidding credit level (if applicable). There is no opportunity to change the election once the initial short-form filing deadline passes on June 20, 2003.

Electronic or Telephonic Bidding Options: Bidders may participate in the auction either electronically or telephonically, and must specify their preference. To participate in the auction, every authorized bidder must have a SecurID card, which the FCC will provide free of charge.

Licenses/Construction Permits: Applicants should select those construction permits that were selected on their previously filed FCC Form 301 or Form 346 on which they want to be eligible to bid in the auction. Be advised that there is no opportunity to change this list once the short-form filing deadline passes on June 20, 2003. It is critically important that you confirm the construction permits that you have selected because the auction system will not accept a bid on construction permits for which an applicant has not applied on its FCC

Form 175.

B. Exhibits and Attachments

In addition to the FCC Form 175 itself, applicants must submit additional information required by the FCC's rules. If attachments are not uploaded, the FCC Form 175 application submission process cannot be completed. Although the FCC does not require a particular format for this information, it has developed the following guidelines that will facilitate the processing of short-form applications. The FCC encourages applicants to submit this information using the following format.

If you find that an attachment has not converted properly to Adobe PDF format, take the following steps:

- 1) Delete the failed attachment;*
- 2) Simplify the formatting of the file. For example, if using a Table structure in a WordPerfect document, remove the Table structure leaving the contents of the table, re-save the document; and*
- 3) Re-upload the attachment.*

Exhibit A -- Applicant Identity and Ownership Information: Section 73.5002 of the broadcast competitive bidding procedural rules specifies the bidding procedures, certification requirements, and anti-collusion rules applicable to applications for commercial broadcast services that are subject to auction. Subsection (b) of that rule requires the timely submission of short-form applications along with all required certifications, information and exhibits pursuant to the provisions of 47 C.F.R. § 1.2105(a) and any Commission public notices. Section 1.2105, in turn, requires the disclosure on the short-form of applicant ownership information, as set forth in Section 1.2112. Specifically, 47 C.F.R. § 1.2105(a)(2)(ii) requires each applicant to fully disclose the real party or parties-in-interest, and the addresses and citizenship of the parties, in an exhibit to its FCC Form 175 application. In addition, the Section 1.2112 ownership disclosure requirements include, *inter alia*, a listing of FCC-licensed entities and a description of each such entity's relationship to the applicant and the applicant's real parties-in-interest.

Furthermore, each applicant applying for a New Entrant Bidding Credit must provide detailed ownership information for itself and its attributable interest holders, as defined by Section 73.3555 of the Commission's rules and by Note 2 to that Section. Regardless of whether a New Entrant Bidding Credit is being sought, all applicants must provide the above-mentioned identification and ownership information.

Exhibit B -- Agreements with Other Parties/Joint Bidding Arrangements: Applicants must attach an exhibit identifying all parties with whom they have entered into any agreements, arrangements or understandings of any kind that relate to the construction permits being auctioned, including any agreements relating to the post-auction market structure. *See* 47 C.F.R. § 1.2105(a)(2)(viii).

Certification (4) to the FCC Form 175 requires the applicant to certify that it will not enter into any explicit or implicit agreements or understandings of any kind with parties not identified in the application regarding bid amounts, bidding strategies, or the particular licenses the applicant will or will not bid. *See* 47 C.F.R. § 1.2105(a)(2)(ix). *Except to the extent provided in 47 C.F.R. § 73.5002 (d)*, the prohibition of collusion set forth in 47 C.F.R. § 1.2105 (c) becomes effective upon the filing of short-form applications. To prevent collusion, the Commission's Rules *generally* prohibit communication among applicants for the same mutually exclusive construction permits or licenses between the initial short-form application filing deadline and the down payment deadline for construction permits/licenses won, when such communication concern bids, bidding strategies, or settlements. 47 C.F.R. § 1.2105(c).

Exhibit C -- Status as a New Entrant Bidding Credit Recipient: An applicant claiming that it qualifies for

a 35 percent new entrant bidding credit must provide a certification, under penalty of perjury, that neither it nor any of its attributable interest holders have any attributable interests in any other media of mass communications, as defined in 47 C.F.R. § 73.5008. An applicant claiming that it qualifies for a 25 percent new entrant bidding credit must provide a certification, under penalty of perjury, that neither it nor any of its attributable interest holders have attributable interests in more than three media of mass communications, as defined in 47 C.F.R. § 73.5008. In addition, applicants claiming a 25 percent credit shall identify and describe such media of mass communications. *See* 47 C.F.R. §§ 73.5007 and 73.5008.

Attributable interests held by a winning bidder in existing low power FM translator facilities will not be counted among the bidder's other mass media interests in determining eligibility for a bidding credit.⁷⁵ However, the new entrant bidding credit is not available to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in any existing media of mass communications, as defined by 47 C.F.R. § 73.5008, in the same area as the proposed secondary broadcast facility.⁷⁶ Full service noncommercial educational stations, on both reserved and non-reserved channels, are included among "media of mass communications" as defined in Section 73.5008(b).⁷⁷

Exhibit D -- Defaulters and Former Defaulters Information: Each applicant must provide a certification on an Exhibit certifying that it is not in default on any Commission construction permits or licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. Each applicant must also provide a statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission construction permit or license, or has ever been delinquent on any non-tax debt owed to any Federal agency.

Exhibit E -- Information Requested of Designated Entities: Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(b)(2), or that are rural telephone companies, as defined in 47 C.F.R. § 1.2110(b)(3), may attach an exhibit regarding this status. This information will assist the Commission in monitoring the participation of these "designated entities" in its auctions.

Exhibit F – Miscellaneous Information: Applicants must specify the file number of the pending FCC Form 301 or Form 346 on Exhibit F (Miscellaneous Information). Applicants wishing to submit additional information may do so in Exhibit F.

NOTE: Applicants should not list their TIN numbers on any Exhibits to their FCC Form 175s.

Certifications: Applicants should carefully read the list of certifications on the FCC Form 175. These certifications help to ensure a fair and competitive auction and require, among other things, disclosure to the Commission of certain information on applicant ownership and agreements or arrangements concerning the auction. Submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

Completeness: Applicants must submit all information required by the FCC Form 175 and by applicable rules. Failure to submit required information by the resubmission date will result in dismissal of the

⁷⁵ *See id.* § 73.5007(a).

⁷⁶ *See id.* § 73.5007(b).

⁷⁷ *See Minnesota Christian Broadcasters, Inc.*, FCC 03-5, rel. January 17, 2003.

application and inability to participate in the auction. *See* 47 C.F.R. § 1.2105(b).

NOTE: Applicants must press the “Submit Form 175” button on the “Submit” page to successfully submit their FCC Form 175.

Continuing Accuracy: Each applicant is responsible for the continuing accuracy and completeness of information furnished in the FCC Form 175 and its exhibits. *See* 47 C.F.R. § 1.65. Applicants are reminded that they consent to be audited in the certification section of the FCC Form 175 (see certification item number 6).

Applicants are reminded that all information required 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, or confidentiality may be requested, following the procedures set forth in 47 C.F.R. § 0.459. Such requests must be submitted in writing to Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-A760, Washington, D.C. 20554 (with a separate copy mailed to Kenneth Burnley, Legal Branch, Auctions and Industry Analysis Division), in which case the applicant must indicate in Exhibit F that it has filed a confidentiality request. Because the required information bears on applicants' qualifications, the FCC envisions that confidentiality requests will not be routinely granted.

Waivers: Applicants requesting waiver of any rules must submit a statement of reasons sufficient to justify the waiver sought. *See* 47 C.F.R. § 1.3.

X. ATTACHMENT E

AUCTION-SPECIFIC INSTRUCTIONS FOR FCC REMITTANCE ADVICE (FCC FORM 159-February 2000 Edition)

A. Upfront Payments

The following information supplements the standard instructions for FCC Form 159 (Revised 2/00), and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction No. 54. Applicants need to complete FCC Form 159 carefully, since:

- **Mistakes may affect their bidding eligibility; and**
- **Lack of consistency between information set forth in FCC Form 159 (Revised 2/00), FCC Form 175, long-form application, and correspondence about an application may cause processing delays.**

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 Short Form Application are described below:

Block Number	Required Information
1	LOCKBOX # - Enter "358420"
2	Payer Name - Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same as FCC Form 175.
3	Total Amount Paid - Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/00).
4-8	Street Address, City, State, ZIP Code - Enter the street mailing address (not Post Office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number - Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code - For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN – Enter the payer’s ten-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
12	Payer TIN – Enter the payer’s nine-digit Taxpayer Identification Number (TIN).
24A	Payment Type Code - Enter "A54U"
25A	Quantity - Enter the number "1"
26A	Fee Due - Amount of Upfront Payment

27A Total Fee - Will be the same amount as 26A.

28A FCC Code 1 - Enter the number "54" (indicating Auction No. 54).

NOTES:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If applicant is different from the payer, complete blocks 13 through 22 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since credit card payments will not be accepted for this auction, leave Section E blank.

B. Winning Bidder Requirements, Down Payments and Final Payments

Specific information regarding down payments and final payments will be included in a post-auction public notice announcing the winning bidders.

XI. ATTACHMENT F

SUMMARY LISTING OF DOCUMENTS FROM THE COMMISSION AND THE WIRELESS TELECOMMUNICATIONS BUREAU ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULES

A. Commission Decisions:

Second Report and Order in PP Docket No. 93-253, FCC 94-61, 9 FCC Rcd. 2348, 2386-2388 (1994), paragraphs 221-226.

Fifth Report and Order in PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532, 5570-5571 (1994), paragraphs 91-92.

Fourth Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-264, 9 FCC Rcd. 6858, 6866-6869 (1994), paragraphs 47-60.

Second Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-215, 9 FCC Rcd. 7245, 7253-7255 (1994), paragraphs 48-55.

Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-295, 9 FCC Rcd. 7684, 7687-7689 (1994), paragraphs 8-12.

In re Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd. 4277 (1995),
In re Commercial Realty St. Pete, *Memorandum Opinion and Order*, 11 FCC Rcd. 15,374 (1996).

In re Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd. 17,970 (1997) (petition for partial reconsideration pending).

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, FCC 97-413, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd. 374, 463-469 (1997), paragraphs 155-166.

In re Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, 13 FCC Rcd 8286 (1998); In the Matter of Notice of Apparent Liability for Forfeiture of US West Communications, Inc., *Order*, FCC 99-90 (May 7, 1999).

In re Application of Western PCS BTA I Corporation, *Notice of Apparent Liability for Forfeiture*, FCC 98-42 (March 16, 1998); In the Matter of Notice of Apparent Liability for Forfeiture of Western PCS BTA I Corporation, *Memorandum Opinion and Order*, 14 FCC Rcd 21571, 21577-78, ¶ 20 (rel. Dec. 13, 1999).

In the Matter of Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001).

B. Wireless Telecommunications Bureau Decisions:

Amendment of Parts 21 and 74 of the Commission's rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, *Order*, 11 FCC Rcd. 9655 (Wireless Tel. Bur. 1995).

In re Applications of GWI PCS, Inc. For Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C, *Memorandum Opinion and Order*, 12 FCC Rcd. 6441 (Wireless Tel. Bur. 1997).

In re Applications of Mercury PCS II, LLC, For Facilities in the Broadband Personal Communications Services in the D, E, and F Blocks, *Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 18,093 (Wireless Tel. Bur. 1997).

In the Matter of Applications of High Plains Wireless, L.P., For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 12 FCC Rcd. 19,627 (Wireless Tel. Bur. 1997).

In the Matter of Applications of Mercury PCS II, LLC, For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 13 FCC Rcd. 5756 (Wireless Tel. Bur. 1997).

1. Public Notices:

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

FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS 'C' Block Reauction, *Public Notice*, 11 FCC Rcd. 7031 (1996).

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, 11 FCC Rcd. 10,134 (1996).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, DA 98-37 (rel. January 9, 1998).

2. Letters from the Office of General Counsel and the Wireless Telecommunications Bureau:

Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

Letter to Alan F. Ciamporcero from William E Kennard, General Counsel, Federal Communications Commission (released October 25, 1996).

Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 1, 1994).

Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 14, 1994).

Letter to Jonathan D. Blake and Robert J. Rini from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 95-2404 (released November 28, 1995).

Letter to Mark Grady from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 10,895 (1996).

Letter to David L. Nace from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 11,363 (1996).

Letter to Elliott J. Greenwald from Christopher J. Wright, General Counsel, Federal Communications Commission (released April 6, 1998).

Letter to Robert Pettit, Wiley, Rein & Fielding from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, DA 00-2905 (released December 26, 2000).

3. Civil Actions Initiated by U.S. Department of Justice:

U.S. v. Omnipoint Corp., Proposed Final Judgements and Competitive Impact Statements, Department of Justice, 63 FR 65,228 (November 25, 1998).

“Justice Department Sues Three Firms Over FCC Auction Practices,” *Press Release, U.S. Department of Justice* (November 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. November 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. November 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. November 10, 1998).

How to Obtain Copies of the Anti-Collusion Decisions:

Many of the documents listed in this attachment can be retrieved from the following Commission web site: <http://wireless.fcc.gov/auctions/anticollusion>

The documents may be located by using our search engine (select the link “search”). Documents retrieved from the web site are available in various formats including Word, WordPerfect, Acrobat Reader, Excel, and ASCII Text. To review a document in its entirety, including footnotes, it is necessary to access the document in WordPerfect, MS Word, or Acrobat Reader.

Additionally, all of the documents can be ordered in hard copy for a fee from the Commission’s contractor, Qualex International at (202) 863-2893.