



PUBLIC NOTICE

Federal Communications Commission
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24 GHz SERVICE SPECTRUM AUCTION CLOSES Winning Bidders Announced

Down Payments Due August 16, 2004
FCC Forms 601 and 602 Due August 16, 2004
Final Payments Due August 30, 2004
Ten-Day Petition to Deny Period

Report No. AUC-04-56-E (Auction No. 56)

On July 28, 2004, the Federal Communications Commission completed the auction of 880 24 GHz Service licenses in the 24.25-24.45 GHz and 25.05-25.25 GHz bands (24 GHz band) ("Auction No. 56"), raising (in net bids) a total of \$216,050. In this auction, three winning bidders won a total of seven licenses. This *Public Notice* provides detailed information concerning winning bidders, down payments, final payments and/or refunds, FCC Forms 601 and 602 filing requirements, requests for rule waivers, and licensing matters. Key information appears in the following attachments:

- Attachment A:** "Round Results, High Bids" lists winning bidders, and both the gross and the net amounts of the winning bids.
- Attachment B:** "Bidder Payment/Refund Report" lists down payments and final payments owed by winning bidders, if any.
- Attachment C:** "Instructions for Completing FCC Form 601 & Form 602" provides detailed information about how a winning bidder should complete the required FCC Form 601 and FCC Form 602 for 24 GHz license applications.
- Attachment D:** "Instructions for Using ULS to Associate Call Signs with an FRN."

A copy of this *Public Notice* will be sent via overnight mail to each winning bidder.

A. Down Payments

The Commission's rules require that within ten business days after the release of this *Public Notice*, in this case before **6:00 p.m. ET on August 16, 2004**, winning bidders in Auction No. 56 must have on deposit with Mellon Bank in Pittsburgh, Pennsylvania, enough funds to cover down payments on winning bids.¹ Each winning bidder's total deposits must be twenty (20) percent of its net winning bid(s). If a winning bidder's upfront payment is not sufficient to meet this requirement, the winning bidder must deposit additional funds.² In this case all winning bidders' upfront payment amounts are sufficient to meet this requirement.

B. Final Payments

Each winning bidder will be required to submit the balance of the net amount of its winning bids by August 30, 2004.³ Licenses will be granted only after the full and timely payment of winning bids and any applicable late fees, in accordance with Section 1.2109(a), and upon completion of the long-form applications (FCC Form 601) review.⁴ In this case all winning bidders' upfront payment amounts are sufficient to meet this requirement.

C. Default and Disqualification Payments

The Commission imposes payments on bidders that default on payments due after an auction closes, or those that are disqualified.⁵

Bid Default/Disqualification Payments. If a high bidder defaults or is disqualified after the close of the auction, the defaulting bidder will be subject to the following payment obligations: the difference between the high bid and the amount of the winning bid the next time the license is offered by the Commission; and an additional payment equal to three (3) percent of the subsequent winning bid or three (3) percent of the defaulted bid, whichever is less. Where a bidding credit applies to the winning bid in either the original or the subsequent auction, the calculation of the three percent payment is based on the smaller of the two gross bids or smaller of the two net bids, whichever basis (gross or net) was used to figure the first component. Thus, if the difference between the gross bids is less than the difference between the net bids, the three percent payment will be computed on the lower of the gross bids. If the difference between the net bids is less than or equal to the difference between the gross bids, the three percent payment will be computed on the lower of the net bids. However, if both the difference between the gross bids and the difference between the net bids are less than or equal to zero, the three percent payment will be computed on the lower of the net bids.

¹ 47 C.F.R. § 1.2107(b).

² *Id.*

³ See "Auction of 24 GHz Service Licenses Scheduled for July 28, 2004, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Auction Procedures," *Public Notice*, 19 FCC Rcd. 4355 (2004) ("*Auction No. 56 Procedures Public Notice*").

⁴ 47 C.F.R. §§ 1.2107(c), 1.2109(a).

⁵ See 47 C.F.R. §§ 1.2104(g), 1.2109(c).

Licenses will be awarded only after the full and timely payment of winning bids and any applicable late fees⁶, and upon completion of the long-form applications (FCC Form 601) review. A winning bidder that is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required payments, will be deemed to have defaulted and will be liable for the payment set forth in Section 1.2104(g)(2).⁷ In such event, the Commission may re-auction the spectrum to existing or new applicants.⁸

Additionally, bidders that are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of their upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.⁹

D. Refund of Excess Payments

Upfront monies on deposit that are in excess of the required final payment or default payment amount will be refunded to the payer of record as identified on FCC Form 159 promptly upon receipt of the necessary wire transfer instructions. Such instructions must be faxed to Gail Glasser at (202) 418-2843. Any questions concerning refunds should be referred to Gail Glasser at (202) 418-0578.

E. FCC Form 601

By **6:00 p.m. ET on August 16, 2004**, winning bidders must submit a completed long-form application(s) covering each license for which they were the winning high bidder. **Attachment C** sets out instructions for completing the FCC Form 601. Applications **must** be filed electronically. Detailed instructions for filing the Form 601 electronically are set out in **Attachment C**.

Failure to timely file the required FCC Form 601 application(s) will result in default. Late-filed applications will not be accepted without a showing of good cause.¹⁰

F. Tribal Land Bidding Credit

The Commission has implemented a tribal land bidding credit to encourage the growth of wireless services in federally recognized tribal lands. For information relating to the tribal land bidding credit, *see Attachment C*.

G. FCC Form 602

Pursuant to Sections 1.919 and 1.2107(f) of the Commission's rules, an applicant for a license in an auctionable service must have on file with the Commission a current FCC Form 602 regarding ownership

⁶ 47 C.F.R. §1.2109(a).

⁷ 47 C.F.R. § 1.2104(g)(2), 1.2109(c).

⁸ 47 C.F.R. § 1.2109(c).

⁹ 47 C.F.R. § 1.2109(d).

¹⁰ 47 C.F.R. § 1.2107(c).

information of the applicant.¹¹ Therefore, unless the applicant already has a current FCC Form 602 on file with the Commission, the applicant must submit one at the time the FCC Form 601 is filed. Any late-filed FCC Form 602 must contain a request for waiver of the filing requirement in 47 C.F.R. § 1.919.

Filing an FCC Form 602 is a separate requirement from, and in addition to, the ownership reporting requirements associated with filing FCC Form 601, Exhibit A, as set forth in **Attachment C**. However, to avoid duplication, applicants may provide certain information required in Exhibit A by attaching a copy of their FCC Form 602 (in Adobe PDF Format) to their FCC Form 601 submission. Applicants are reminded, however, that an FCC Form 602 still must be filed electronically via the Universal Licensing System (ULS).¹² For further information, see Instructions in **Attachment C**.

H. Maintaining Accuracy of Information

After the auction closes, applicants are required to make all changes in the ULS system (Form 601). Applicants are no longer required to maintain accuracy and completeness of information furnished on their FCC Form 175 and exhibits.

I. Application Processing and License Grant

Pursuant to 47 C.F.R. § 1.2108(b) and the Balanced Budget Act of 1997, interested parties will have **ten (10) days** to file petitions to deny after the Commission releases a public notice announcing the long-form (FCC Form 601) applications that are acceptable for filing.¹³ An applicant may file an opposition to any petition to deny within **five (5) business days** after the time for filing petitions to deny has expired.¹⁴ The petitioner may file a reply to such opposition within **five (5) business days** after the time for filing oppositions has expired.¹⁵ After the long-form review process, if the Commission determines that additional payments from applicants may be required, the Bureau will provide further instructions in a future Public Notice regarding any such additional payments. If the Commission determines that an applicant is otherwise qualified, that there are no substantial and material issues of fact raised in any petition to deny, and that no additional payments are due, it will issue a public notice announcing grant of the license (or licenses) to the applicant.

Frivolous Pleadings. The Commission reminds parties to our proceedings and their attorneys that the Commission intends to use its authority fully to deter the filing of frivolous pleadings.¹⁶

¹¹ 47 C.F.R. §§ 1.919, 1.2107(f).

¹² Beginning December 10, 2002, electronic filing of FCC Form 602 via the ULS became mandatory. See “Wireless Telecommunications Bureau Reminds Filers of Effective Date for Mandatory Electronic Filing of FCC Form 602,” *Public Notice*, 17 FCC Rcd 22934 (2002). For more information on FCC Form 602, see also “Wireless Telecommunications Bureau Announces Revised Version of FCC Form 602 is Now Available,” *Public Notice*, 17 FCC Rcd 16197 (2002); “Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602,” *Public Notice*, 14 FCC Rcd 8261 (1999).

¹³ 47 C.F.R. § 1.2108(b); Pub. L. No. 105-33, 111 Stat. 251 (1997).

¹⁴ 47 C.F.R. § 1.2108(c).

¹⁵ *Id.*

¹⁶ See Commission Taking Tough Measures Against Frivolous Pleadings, *Public Notice*, 11 FCC Rcd 3030 (1996).

J. Anti-collusion Rules

To ensure the competitiveness of the auction process, the Commission's rules prohibit competing applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements. As explained more fully in the *Auction No. 56 Qualified Bidders Public Notice*,¹⁷ this prohibition began at the short-form application filing deadline and ends at the down payment deadline, which is August 16, 2004.¹⁸ The prohibition ends on the down payment due date regardless of whether a high bidder must supplement its upfront payment to cover its down payment. Applicants certified their compliance with Section 1.2105(c) when their FCC Form 175 short-form applications were signed.

K. Return of SecurID Cards

Bidders are encouraged to return their SecurID cards to the FCC by August 16, 2004, for recycling. The Commission will send bidders a copy of this *Public Notice* and a pre-addressed, stamped envelope. All bidders should use the envelope to return the cards now that the auction is over. Please note that each SecurID card is tailored to a specific auction, therefore, the cards issued for this auction will not work for future auctions.

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¹⁷ See 24 GHz Service Spectrum Auction, 3 Qualified Bidders, *Public Notice*, DA 04-2086 (rel. July 13, 2004) (“*Auction No. 56 Qualified Bidders Public Notice*”).

¹⁸ *Id.*

For further information, contact

News Media:

Lauren Patrich at (202) 418-7944

Technical Support Hotline:

Technical Support Personnel at
(202) 414-1250
or (202) 414-1255 (text telephone (TTY))

Office of the Managing Director
Auctions Accounting Group
(Payment, FCC Form 159 and refund
questions)

Gail Glasser at (202) 418-0578

Wireless Telecommunications Bureau,
Broadband Division
(FCC Form 601 and 602 questions)

Beth Fishel, Analyst, at (717) 338-2687
Michael Pollak, Electronics Engineer, at (202) 418-2487
Nancy Zaczek , Attorney, at (202) 418-2487

Wireless Telecommunications Bureau,
Auctions and Spectrum Access Division
(Auction-related questions)

Barbara Sibert, Project Manager, at (717) 338-2888
Howard Davenport, Attorney Advisor, at (202) 418-0660

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