



PUBLIC NOTICE

Federal Communications Commission
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News Media Information: 202-418-0500
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DA 05-1047
April 21, 2005

AUCTION OF AUTOMATED MARITIME TELECOMMUNICATIONS SYSTEM LICENSES SCHEDULED FOR AUGUST 3, 2005

Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures for Auction No. 61

Report No. AUC-05-61-B (Auction No. 61)

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I. GENERAL INFORMATION

A. Introduction

By this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) announces the procedures and minimum opening bid amounts for the upcoming auction of licenses of Automated Maritime Telecommunications System (“AMTS”) spectrum scheduled for August 3, 2005 (Auction No. 61). On February 2, 2005, in accordance with the Section 309(j)(4) of the Communications Act of 1934, as amended,¹ the Bureau released a public notice seeking comment on reserve prices or minimum opening bid amounts and the procedures to be used in Auction No. 61.² The Bureau received two comments, one reply comment, and a response to the reply comment in response to the *Auction No. 61 Comment Public Notice*.³

1. Background of Proceeding

The Maritime Services provide for the unique distress, operational and personal communication needs of vessels at sea and on inland waterways.⁴ AMTS is a maritime service that was established in 1981 as an alternative to VHF public coast service (“VPCS”).⁵ In the *Public Coast Second Report and Order and Second Further Notice*, the Commission described AMTS as a specialized system of public coast stations providing integrated and interconnected marine voice and data communications, somewhat like a cellular phone system, for tugs, barges, and other commercial vessels on waterways.⁶

Section 309(j)(2) of the Communications Act formerly stated that mutually exclusive applications for initial licenses or construction permits were auctionable if the principal use of the spectrum was for subscriber-based services, and competitive bidding would promote the expressed objectives of the Communications Act.⁷ The Commission concluded that the public coast service, including VPCS, high seas, and AMTS

¹ 47 U.S.C. § 309(j)(4)(F).

² See “Auction of Automated Maritime Telecommunications System Licenses Scheduled for August 3, 2005; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Procedures for Auction No. 61,” *Public Notice*, DA 05-194 (rel. Feb. 2, 2005) (“*Auction No. 61 Comment Public Notice*”) (70 Fed. Reg. 7270) (Feb. 11, 2005). 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).

³ Comments were filed on February 17, 2005 by Paging Systems, Inc. (“PSI”) and comments were also filed on February 18, 2005 by Warren C. Havens (“Havens”), Telesaurus VPC LLC (“TCL”), AMTS Consortium LLC (“ACL”), and Telesaurus Holdings GB LLC (“THL”) (collectively “Commenting Parties”). On February 19, 2005, the Commenting Parties also submitted Errata. Reply Comments were submitted on February 26, 2005 by the Commenting Parties. On March 8, 2005, PSI filed “Motion to Accept Response to Reply Comments and Response to Reply Comments.”

⁴ For a fuller description of the Maritime Services, see Amendment of the Commission’s Rules Concerning Maritime Services, *Second Report and Order and Second Further Notice of Proposed Rule Making*, 12 FCC Rcd 16,949, 16,953-56 ¶¶ 4-9 (1997) (“*Public Coast Second Report and Order and Second Further Notice*”).

⁵ See Amendment of Parts 2, 81 and 83 of the Commission’s Rules to Allocate Spectrum for an Automated Inland Waterways Communications System (IWCS) Along the Mississippi River and Connecting Waterways, *Report and Order*, GEN Docket No. 80-1, 84 FCC 2d 875, 876 ¶ 2, on reconsideration, *Memorandum Opinion and Order*, GEN Docket No. 80-1, 88 FCC 2d 678 (1981), *aff’d sub nom.*, *WJG Tel. Co. v. FCC*, 675 F.2d 386 (D.C. Cir. 1982).

⁶ *Public Coast Second Report and Order and Second Further Notice*, 12 FCC Rcd at 17,004 ¶ 111.

⁷ See 47 U.S.C. § 309(j) (1996).

public coast stations, was a Commercial Mobile Radio Service (“CMRS”)⁸ and subsequently decided that mutually exclusive applications for public coast station licenses would be resolved through competitive bidding.⁹

On August 5, 1997, after release of the *Public Coast Second Report and Order and Second Further Notice*, President Clinton signed into law the Balanced Budget Act of 1997 (“Balanced Budget Act”),¹⁰ which expanded the Commission’s auction authority by amending Section 309(j) of the Communications Act to provide that all mutually exclusive applications for initial licenses or construction permits **shall** be auctioned, with certain exceptions not applicable here.¹¹

In the *Public Coast Second Report and Order and Second Further Notice*, the Commission adopted AMTS rules that permit service on land, so long as marine-originating communications receive priority.¹² In the *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, the Commission adopted a geographic licensing system for AMTS with service areas (“AMTSAs”) based upon maritime VPCS areas (“VPCSA”), with the modification that the inland VPCSAs would be consolidated into a single, inland geographic service area.¹³ The Commission announced that it would conduct an auction to resolve mutually exclusive applications for AMTS licenses.¹⁴ Additionally, the Commission concluded that the general competitive bidding rules, and the rules regarding the participation of small businesses in auctions that were applied to the auction of VPC licenses, should be used for auctioning AMTS licenses.¹⁵

On February 2, 2005, the Wireless Telecommunications Bureau (“Bureau”) released the *Auction No. 61 Comment Public Notice* announcing that Auction No. 61 will commence on August 3, 2005, setting forth a

⁸ See *Public Coast Second Report and Order and Second Further Notice*, 12 FCC Rcd at 17,011 ¶ 123 (citing Implementation of Sections 3(n) and 332 of the Communications Act -- Regulatory Treatment of Mobile Services, *Second Report and Order*, 9 FCC Rcd 1411, 1448 (1994)).

⁹ See Amendment of the Commission’s Rules Concerning Maritime Communications, *Public Coast Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19,853, 19,881 ¶ 59 (1998) (*Public Coast Third Report and Order*) (citing *Second Report and Order and Second Further Notice*, 12 FCC Rcd at 17,011 (citing Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, *Second Report and Order*, 9 FCC Rcd 2348, 2356-57 (1994) (*Competitive Bidding Second Report and Order*))).

¹⁰ Balanced Budget Act, Pub. L. No. 105-33, 111 Stat. 251.

¹¹ 47 U.S.C. § 309(j) (as amended by Balanced Budget Act, § 3002).

¹² *Public Coast Second Report and Order and Second Further Notice*, 12 FCC Rcd at 16,965 ¶ 25.

¹³ *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685, at 6695-99 ¶¶ 21-29. AMTSAs are based on, and composed of one or more of, the U.S Department of Commerce’s 172 Economic Areas (EAs). In addition, the Commission treats Puerto Rico, the United States Virgin Islands, and the Gulf of Mexico as EA-like areas. Maps of the EAs and AMTSAs are available for public inspection and copying at the Federal Communications Commission, Public Safety and Critical Infrastructure Division, 445 12th Street, S.W., Washington, D.C. Each AMTSA also includes the adjacent waters under the jurisdiction of the United States. *Id.*

¹⁴ *Id.*

¹⁵ *Id.*, 17 FCC Rcd at 6695 ¶ 21. Although the Commission adopted the Part 1 rules for AMTS in 2002, the Commission had tentatively concluded in 2000 that these rules were appropriate for AMTS. Amendment of the Commission’s Rules Concerning Maritime Communications, *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 15 FCC Rcd 22,585, 22,620-21 ¶ 75 (2000) (*Public Coast Fourth Report and Order and Third Further Notice of Proposed Rule Making*”).

complete list of licenses for Auction No. 61, and seeking comment on reserve prices or minimum opening bid amounts and other auction procedures.¹⁶

2. Licenses to be Auctioned

Auction No. 61 will offer ten licenses in the AMTS Service in the 217/219 MHz bands. Licenses will be offered in each of 10 AMTSAs where available.¹⁷ These licenses remained unsold in Auction No. 57, which closed on September 15, 2004. For Auction No. 61, licenses are not available in each spectrum block in every market. A complete list of the licenses available in Auction No. 61 and their descriptions is included in Attachment A of this Public Notice.

The following table contains the AMTS block/frequency bands cross-reference list for Auction No. 61:

| Block | Frequency Bands (MHz) | Total Bandwidth | Pairing | Geographic Area Type | No. of Licenses |
|-------|-------------------------------|-----------------|-------------|----------------------|-----------------|
| A | 217.5 – 218.0 / 219.5 – 220.0 | 1 MHz | 2 x 500 kHz | AMTSA | 9 |
| B | 217.0 – 217.5 / 219.0 – 219.5 | 1 MHz | 2 x 500 kHz | AMTSA | 1 |

Note: The above table displays the band edges of spectrum blocks A and B using the twenty 25 kHz channels that comprise each block as listed in 47 C.F.R. § 80.385(a)(2). It should be noted that pursuant to 47 C.F.R. § 80.481, licensees are not required to use 25 kHz channelization and may choose any channelization scheme; however, regardless of the channelization scheme used, emissions at these band edges must be attenuated within the limitation that would be required under 47 C.F.R. § 80.211 if the licensee were using 25 kHz channels.

B. Rules and Disclaimers

1. Relevant Authority

Prospective applicants must familiarize themselves thoroughly with the Commission's rules, particularly those relating to the AMTS service contained in Title 47, Part 80, of the Code of Federal Regulations, and those relating to application and auction procedures, contained in Title 47, Part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, "terms") contained in this Public Notice; the *Auction No. 61 Comment Public Notice*; *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order* and the *Public Coast Fourth Report and Order and Third Further Notice of Proposed Rule Making*¹⁸ (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees).¹⁹

¹⁶ *Auction No. 61 Comment Public Notice*.

¹⁷ See 47 C.F.R. § 80.385; *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd at 6738, Appendix D.

¹⁸ *Auction No. 61 Comment Public Notice*; *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685; *Public Coast Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 15 FCC Rcd 22,585.

¹⁹ See, e.g., Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, *Second Report and Order*, 9 FCC Rcd 2348 (1994); 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) (modified by Erratum, DA 00-2475 (rel. Nov. 3,

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 applicants. It is the responsibility of all applicants 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, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), 445 12th Street, SW, Room CY-B402, Washington, DC 20554, 800-378-3160 (telephone) or <http://www.bcpweb.com>. When ordering documents from BCPI, please provide the appropriate FCC document number (for example, DA 05-194 for the *Auction No. 61 Comment Public Notice*).

2. Prohibition of Collusion

To ensure the competitiveness of the auction process, Section 1.2105(c) of the Commission's rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii).²⁰ Thus, applicants for any of the same geographic license areas must affirmatively avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bidding or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction.²¹ **This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.** For purposes of this prohibition, Section 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting an application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity.²²

Applicants for licenses in any of the same geographic license areas 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 applicants 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

2000)) ("*Part 1 Fifth Report and Order*"; Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001) ("*Part 1 Seventh Report and Order*") (amending the anti-collusion rule, which is codified at 47 C.F.R. §1.2105(c)); Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, *Eighth Report and Order*, 17 FCC Rcd 2962 (2002) (amending Section 1.2110 of the Commission's rules); Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, *Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order*, 18 FCC Rcd 10180 (2003) ("*Order on Reconsideration of the Part 1 Fifth Report and Order*"; *Second Order on Reconsideration of the Fifth Report and Order*, 20 FCC Rcd 1942 (2005) (further amending Section 1.2110 to exempt the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant and adopting other modifications to the competitive bidding rules).

²⁰ 47 C.F.R. § 1.2105(a)(2)(viii); 47 C.F.R. § 1.2105(c)(1). *See also Part 1 Seventh Report and Order*, 16 FCC Rcd 17546 (2001); *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15297-98 ¶¶ 7-8.

²¹ 47 C.F.R. § 1.2105(c)(1).

²² 47 C.F.R. § 1.2105(c)(7)(i).

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.²³ However, the Bureau cautions 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.²⁴

The Commission's anti-collusion rule allows applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering any of the same geographic areas.²⁵ In addition, applicants that apply to bid for all markets will be precluded from communicating with all other applicants until after the down payment deadline. 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 Form 175.²⁶ 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.²⁷ By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with Section 1.2105(c).

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.²⁸ Thus, Section 1.65 requires auction applicants that engage in communications of bids or bidding strategies that result in a bidding agreement, arrangement or understanding not already identified on their short-form applications to promptly disclose any such agreement, arrangement or understanding to the Commission by amending their pending applications. In addition, Section 1.2105(c)(6) requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing immediately but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under Section 1.65.²⁹

Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process.³⁰ Any applicant found to have violated the anti-collusion rule may be subject to sanctions, including forfeiture of its upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions.³¹ In

²³ See 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).

²⁴ See *id.*, 13 FCC Rcd at 11978 ¶ 13.

²⁵ 47 C.F.R. § 1.2105(c)(2) & (3).

²⁶ 47 C.F.R. § 1.2105(c).

²⁷ See "Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, 11 FCC Rcd 9645 (1995).

²⁸ 47 C.F.R. § 1.65.

²⁹ 47 C.F.R. § 1.2105(c)(6); see also *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17.

³⁰ 47 C.F.R. § 1.2107(d).

³¹ See 47 C.F.R. § 1.2109(d).

addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.³²

A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment E and these documents are available on the Commission's anti-collusion web page.³³

3. Interference Protection

Incumbent AMTS site-based licensees are entitled to co-channel protection by AMTS geographic area licensees. Among other licensing and technical rules, AMTS geographic area licensees will be required to afford interference protection to incumbent systems, on a fixed separation basis as provided in Section 80.385(b)(1). Geographic area licensees must also provide co-channel interference protection to other geographic area licensees in accordance with Sections 80.479(b) and 80.70(a).

Incumbents will be prohibited from renewing, transferring, assigning, or modifying their licenses in any manner that extends their system's service area³⁴ or results in their acquiring additional frequencies, unless there is consent from each affected geographic area licensee. If an incumbent fails to construct, discontinues operations, or otherwise has its license terminated, the spectrum covered by the incumbent's authorization will automatically revert to the geographic area licensee.

In addition, AMTS licensees that cause interference to television reception or to the U.S. Navy Space Surveillance System (SPASUR)³⁵ system must cure the problem or discontinue operations.³⁶

4. Coordination Requirements

AMTS geographic area licensees may place stations anywhere within their service areas to serve vessels or units on land, so long as incumbent operations are protected, marine-originating traffic is given priority and certain major waterways are served. However, geographic area licensees must individually license any base station that requires an Environmental Assessment pursuant to Section 1.1307 of the Commission's Rules or international coordination, or would affect the radio frequency quiet zones described in Section 80.21 of the Commission's rules, or would require broadcaster notification and an engineering study described in Section 80.215(h).³⁷

³² *Id.*

³³ http://wireless.fcc.gov/auctions/default.htm?job=anti_collusion

³⁴ As proposed in the *Public Coast Third Further Notice*, expanding an incumbent system's contour over water only (disregarding uninhabited islands) shall not be deemed to extend the system's service area. Such an expansion shall not reduce the area that can be served by the geographic area licensee because the geographic licensee would not be able to service the additional water area without causing interference to areas served by the incumbent.

³⁵ The SPASUR radar system is located in the southern United States and consists of three high-power transmitter locations and six receiver locations. Amendment of the Commission's Rules Concerning Low Power Radio and Automated Maritime Telecommunications System Operations in the 216-217 MHz Band, *Report and Order*, 11 FCC Rcd 18,517, 18,519 (1996) (*LPRS Report and Order*).

³⁶ See 47 C.F.R. § 80.215(h)(4), 80.385(a)(2).

³⁷ See 47 C.F.R. § 80.475.

For instance, AMTS applicants proposing to locate a transmitter (1) within 169 kilometers (105 miles) of a Channel 13 television station, (2) within 105 kilometers (80 miles) of a Channel 10 television station, or (3) with an antenna height greater than 61 meters (200 feet), must file an application with the Commission, including an engineering study showing how harmful interference to television reception will be avoided, and must also give written notice of the application to the television stations that may be affected so that the broadcaster can comment on the proposed construction.³⁸

Additionally, AMTS licensees must obtain written consent from all affected licensees prior to using AMTS frequencies for mobile-to-mobile communications.

5. Due Diligence

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 licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

Applicants are reminded that there are a number of incumbent licensees already licensed and operating on frequencies that will be subject to the upcoming auction, such as AMTS Station licensees. Such incumbents must be protected from harmful interference by AMTS Station geographic area licensees in accordance with the Commission's Rules.³⁹ These limitations may restrict the ability of such AMTS geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. We therefore caution potential applicants in formulating their bidding strategies to investigate and consider the extent to which AMTS frequencies are occupied by incumbents.

Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 61.

In establishing the AMTS service, the Commission considered the potential for interference to television reception, particularly Channels 13 and 10.⁴⁰ Consequently, geographic licensees will be required to file individual applications for authority to operate a new AMTS transmitter within 169 kilometers (105 miles) of a Channel 13 television station or 129 kilometers (80 miles) of a Channel 10 television station, or with an antenna height greater than 61 meters (200 feet) above ground.⁴¹ Such applications must include an engineering study showing how harmful interference to television reception will be avoided,⁴² and the

³⁸ See 47 C.F.R. § 80.475(a)(2).

³⁹ Prospective bidders should see the Part 80 Rules pertinent to AMTS, including, but not limited to, Sections 80.215, 80.385, and 80.475-80.481, and the Commission Orders in PR Docket No. 92-257, e.g., *Public Coast Fourth Report and Order and Third Further Notice of Proposed Rule Making*; *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*; and *Third Memorandum Opinion and Order*.

⁴⁰ *Amendment of Parts 2 and 80 of the Commission's Rules Applicable to Automated Maritime Telecommunications Systems (AMTS)*, First Report and Order, RM-5712, 6 FCC Rcd 437, 437 (1991) ("AMTS First Report and Order").

⁴¹ 47 C.F.R. § 80.475(a).

⁴² The Commission conducted a study to analyze the interference potential from AMTS systems to TV reception. See R. Eckert, *Guidance for Evaluating the Potential for Interference to TV from Stations of Inland*

applicant must notify each television station that may be affected so that the broadcaster can comment on the proposed construction.⁴³ Moreover, any AMTS licensee that causes such interference must cure the problem or cease operations.⁴⁴ AMTS licensees are permitted to construct “fill-in” sites⁴⁵ without filing individual applications,⁴⁶ but such sites are fully subject to the requirement that AMTS stations cause no harmful interference to television reception, and must discontinue operations if unable to meet this requirement.⁴⁷

In addition, AMTS operations must not cause harmful interference to the United States Navy's SPASUR which operates in the 216.880-217.080 MHz band.⁴⁸ Also, law enforcement tracking operations are currently authorized on a primary basis in certain markets in AMTSAs 3, 4, 6, 9 and 10 on a frequency in block A.⁴⁹ These operations are scheduled to be converted to non-AMTS frequencies by 2007. It is the responsibility of bidders to be aware of these and all other technical or regulatory matters affecting the spectrum licenses available in this auction.

With respect to the geographic boundaries for AMTSAs, the Commission defined the AMTSA boundaries to include “the adjacent waters under the jurisdiction of the United States.”⁵⁰ Regarding the boundary between AMTSA 3, which includes the west coast of Florida, and AMTSA 4, which includes the Gulf of Mexico EA-like area, we hereby clarify that, for AMTSA 3, the boundary extends only to the limit of the U.S. territorial waters in the Gulf (12-nautical mile limit); and the boundary for AMTSA 4 extends from the 12-nautical mile line outward to the broadest geographic limits consistent with international agreements.⁵¹

To date, no existing agreements between the United States and Mexico or Canada restrict AMTS channel availability in the Mexican and Canadian border areas. Licensees will, however, be subject to any future agreements regarding international assignments and coordination of such channels; and it is the responsibility of applicants to be familiar with all relevant governing international agreements; and that such agreements and amendments thereto may affect the use, utility or value of the spectrum at issue.

Applicants should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission

Waterways Communications Systems, FCC/OST TM82-5 (July 1982). This report is a model for applicants to use in performing any required engineering analysis of potential interference, including determination of interference contours. *AMTS First Report and Order*, 6 FCC Rcd at 437.

⁴³ 47 C.F.R. § 80.475(a).

⁴⁴ 47 C.F.R. § 80.215(h)(4).

⁴⁵ “Fill-in” stations are stations that do not expand the interference contour of the system as a whole. *See* Implementation of Sections 3(n) and 332 of the Communications Act, *Further Notice of Proposed Rule Making*, 9 FCC Rcd 2863, 2873-74 (1994).

⁴⁶ 47 C.F.R. § 80.475(b).

⁴⁷ 47 C.F.R. § 80.215(h).

⁴⁸ 47 C.F.R. § 80.385(a)(2).

⁴⁹ *See* Call Sign WPNV955 (available in the Commission’s Universal Licensing System at <http://wireless.fcc.gov/uls/>).

⁵⁰ 47 C.F.R. § 80.385(a)(3).

⁵¹ *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service (“WCS”)*, Report and Order, GN Docket No. 96-228, 12 FCC Rcd. 10,785, 10,814, ¶ 59.

may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 61.⁵² In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 61.⁵³ Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. We note that resolution of such matters could have an impact on the availability of spectrum for Auction No. 61. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

Applicants may obtain information about incumbent licenses that may have an effect on availability of licenses in Auction No. 61 through the Bureau's licensing databases on the World Wide Web at <http://wireless.fcc.gov/uls>. Applicants may query the database online and download a copy of their search results if desired. Detailed instructions on using License Search (including frequency searches and the GeoSearch capability) and downloading query results are available online by selecting the "?" button at the upper right-hand corner of the License Search screen. Applicants should direct questions regarding the search capabilities to the FCC ULS/Technical Support hotline at (877) 480-3201, option two. The hotline is available to assist with questions Monday through Friday, from 8:00 a.m. to 7:00 p.m. ET. In order to provide better service to the public, **all calls to the hotline are recorded**. Potential bidders may research the Media Bureau's licensing database on the Internet in order to determine the location of Channel 13 or Channel 10 television stations. Television station information is contained in the Media Bureau's TVQ TV Database and may be researched on the Internet at <http://www.fcc.gov/mb/video/tvq.html>.

The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, applicants may obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database.

⁵² See, e.g., RM-10743, Petitions for Rule Making to amend the Commission's Rules to provide additional flexibility for AMTS and VHF Public Coast Station licensees.

⁵³ See, e.g., *Havens v. FCC*, No. 02-1315 (D.C. Cir. filed Oct. 16, 2002) (requesting review of the Commission's denial of an application for review in the matter of Applications of Warren C. Havens For Automated Maritime Telecommunications System Stations at Chaffee, Aspen, Colorado Springs, Copper Mountain, and Leadville, Colorado, *Memorandum Opinion and Order*, 17 FCC Rcd 17,527 (2002)); *Havens v. FCC*, No. 02-1316 (D.C. Cir. filed Oct. 16, 2002) (requesting review of the Commission's denial of an application for review in the matter of Applications of Warren C. Havens For Authorization to Operate Automated Maritime Telecommunications System Stations at Various Locations in Texas, *Memorandum Opinion and Order*, 17 FCC Rcd 17,588 (2002)); *Havens v. FCC*, No. 02-1359 (D.C. Cir. filed Nov. 25, 2002) (requesting review of the Commission's denial of the application for review in the matter of Regionet Wireless License, LLC Granted Applications to Provide Automated Maritime Telecommunications System Stations at Various Locations in the United States, *Memorandum Opinion and Order*, 17 FCC Rcd 21,263 (2002)); *Havens v. FCC*, No. 02-1360 (D.C. Cir. filed Nov. 25, 2002) (requesting review of the denial of the application for review in the matter of Regionet Wireless License, LLC Application for Renewal of License for Station WRV374 to Provide Automated Maritime Telecommunications System Service to the Atlantic Coast, *Memorandum Opinion and Order*, 17 FCC Rcd 21,269 (2002)); *Havens v. FCC*, No. 03-1447 (D.C. Cir. filed December 18, 2003) (requesting review of the Commission's denial of a petition for reconsideration in Amendment of the Commission's Rules Concerning Maritime Communications, *Third Memorandum Opinion and Order*, PR Docket No. 92-257, 18 FCC Rcd 24,391 (2003)), motion to dismiss granted April 22, 2004. This list is not intended to be exhaustive of potentially relevant judicial proceedings.

Potential applicants are strongly encouraged to physically inspect any sites located in, or near, the service area for which they plan to bid, and also to familiarize themselves with the environmental assessment obligations described in section I.B.7.

6. Bidder Alerts

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 licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 61 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. 61 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

7. National Environmental Policy Act Requirements

Licensees must comply with the Commission’s rules regarding the National Environmental Policy Act (“NEPA”).⁵⁴ The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission’s NEPA rules for each such facility.⁵⁵ The Commission’s NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or

⁵⁴ 47 C.F.R. Ch. 1, Subpart I.

⁵⁵ 47 C.F.R. §§ 1.1305-1.1319.

designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

C. Auction Specifics

1. Auction Date

The auction will begin on Wednesday, August 3, 2005, as announced in the *Auction No. 61 Comment Public Notice*.⁵⁶ With respect to commenters seeking a delay of the start of Auction No. 61, we do not believe it would be in the public interest to do so. Havens, ACL, and TVL request that the Bureau delay Auction No. 61 “for the number of days that the public release of the decision upon the Petition for Reconsideration filed by Paging System Inc. (“PSI”) on October 14, 2004 that sought reconsideration of an Order with regard to Auction 57, is after January 12, 2005, each Auction Date would be postponed by that number of days, plus an additional thirty days.”⁵⁷ According to Havens, ACL, and TVL, the delay is necessary because the Commission has not timely resolved the Petition for Reconsideration filed by PSI which has delayed the award of licenses won in Auction No. 57 and damaged ACL’s and TVL’s business plans, valuation, and ongoing financing activities.⁵⁸ The Commenting Parties request that the Commission not commence activity in Auction No. 61 until the PSI Petition and the Forms 601 of ACL and TVL have been resolved. Lastly, the Commenting Parties seek a delay of Auction No. 61 because they claim that it is difficult to comprehend the extent of the major encumbrances to the licenses being sold in Auction No. 61.⁵⁹

PSI repeats its disagreement with the Commission’s decision⁶⁰ to allow two commonly controlled entities to participate in a spectrum auction. PSI argues that the Commission should set aside the results of Auction No. 57 and begin anew in Auction No. 61, prohibiting commonly controlled applications.⁶¹ To support its position, PSI attaches a study from Dr. John Morgan which concludes that bidding by commonly controlled entities is anti-competitive.⁶² Finally, PSI cites to Section 1.973(d) of the Commission rules.⁶³ PSI claims that this provision provides for the dismissal of conflicting applications submitted by the same applicant.⁶⁴

In reply comments, the Commenting Parties assert that PSI does not plan to participate in Auction No. 61, that PSI is not a commercial mobile radio service provider, and that PSI has had licenses deleted from the Universal Licensing System for failure to construct.⁶⁵ The Commenting Parties claim that PSI’s comments

⁵⁶ *Auction No. 61 Comment Public Notice*, DA 05-194.

⁵⁷ Commenting Parties at 3 (notes omitted).

⁵⁸ *Id.*, at 4-6; *see also* Motions for Stay of Auction No. 57 and Requests for Dismissal or Disqualification, Petition for Reconsideration of PSI (filed October 14, 2004).

⁵⁹ Commenting Parties at 6-8.

⁶⁰ *See* Motions for Stay of Auction No. 57 and Requests for Dismissal or Disqualification, *Order*, 19 FCC Rcd 20482 (2004).

⁶¹ PSI Comments at 7.

⁶² PSI Comments at 4, Exhibit 1.

⁶³ 47 CFR § 1.937(d).

⁶⁴ PSI Comments at 6.

⁶⁵ Reply Comments of Commenting Parties at 2-3.

are an unauthorized filing, an abuse of the Commission process. However, the Commenting Parties agree with PSI that the Commission should decide PSI's Petition for Reconsideration before proceeding with Auction No. 61, but should impose severe sanctions on PSI and its counsel for seeking to set aside the results of Auction No. 57.⁶⁶

PSI sought leave of the Commission to file a response to the Reply Comments of the Commenting Parties.⁶⁷ In its Reply Comments, PSI asks that the Bureau impose on the Commenting Parties, the same ethical standards as any attorney that practices before the Commission.⁶⁸ The PSI Reply Comments then maintain that it has not accused the Commission staff of misconduct and concludes by refuting what it contends are inaccuracies leveled by the Commenting Parties.⁶⁹

We do not find the comments arguing for a delay persuasive. First, the Bureau has issued its decision on the Petition for Reconsideration filed by PSI, resolving all the issues raised herein by PSI.⁷⁰ As a result both the Commenting Parties and PSI know that the sale of the licenses in Auction No. 57 is valid. Second, there has been no showing that any harm has flowed to any person or entity during the pendency of PSI's Petition for Reconsideration. The ruling by the Division remained in force at all times and thus the Commenting Parties, PSI, and any other interested person or entity was bound to follow that ruling unless and until changed or modified.

Havens, ACL, and TVL have made no showing that they have not been afforded adequate time to prepare for Auction No. 61, a re-auction of licenses not sold in Auction No. 57. Furthermore, we are unpersuaded by the Commenting parties concerns regarding incumbency issues. Potential bidders have already had years to refine their understanding of the heavy presence of incumbents in this spectrum, given that the Commission froze new licenses in 2000.⁷¹ Moreover, although they have been subject to modification since, the Commission adopted technical rules for AMTS over three years ago.⁷² Finally, both commenters that argued for delay each claim that they are already providing AMTS services, and thus, already have business plans, presumably have assessed market conditions, and certainly evaluated the availability of equipment for the AMTS service.

Section 309(j)(3)(E)(ii) provides, in pertinent part, that after the issuance of bidding rules the Commission shall "ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services."⁷³ The Commission decided in 2002 that the general bidding rules found in Subpart Q of Part 1 of the Commission's Rules should apply to the auction of public coast spectrum.⁷⁴ We do not believe that the statutory requirement to

⁶⁶ Reply Comments of Commenting Parties at 4-6.

⁶⁷ See note 3, above.

⁶⁸ PSI Reply Comments at 2.

⁶⁹ PSI Reply Comments at 3-6.

⁷⁰ See Petition for Reconsideration and Motion for Stay of Paging Systems, Inc. Order, DA 05-1099, (rel. April 21, 2005).

⁷¹ *Public Coast Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 15 FCC Rcd 22,585.

⁷² *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685; see *Public Coast Third Memorandum Opinion and Order*, 13 FCC Rcd 24,391.

⁷³ 47 U.S.C. § 309(j)(3)(E)(ii).

⁷⁴ *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685, 6718 ¶ 79.

provide prospective bidders with time to develop a business plan and evaluate the availability of equipment requires the Commission to postpone an auction until every external factor that might influence a bidder's business plan is resolved with absolute certainty.⁷⁵ We also note that, while Section 309(j)(3)(E) directs the Commission to provide interested parties adequate time to prepare prior to an auction, the statute also requires that the Commission promote several other objectives in exercising its competitive bidding authority, including the rapid deployment of new technologies and services to the public, promotion of economic opportunity and competition, recovery for the public of a portion of the value of the spectrum, and efficient and intensive use of the spectrum.⁷⁶ In balancing these objectives, we determine that the public interest would be served by proceeding with the auction as scheduled.

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 licenses will be conducted on each business day until bidding has stopped on all licenses.

2. Auction Title

Auction No. 61 – AMTS.

3. Bidding Methodology

The bidding methodology for Auction No. 61 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC's Integrated Spectrum Auction system ("ISAS" or "FCC Auction System"), and telephonic bidding will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

4. Pre-Auction Dates and Deadlines

| | |
|---|-----------------------------|
| ISAS Orientation Session ⁷⁷ | April 21, 2005 |
| Auction Seminar | May 25, 2005 |
| Short-Form Application (FCC Form 175) Filing Window Opens | May 25, 2005; 12:00 p.m. ET |
| Short-Form Application (FCC Form 175) Filing Window Deadline..... | June 9, 2005; 6:00 p.m. ET |
| Upfront Payments (via wire transfer)..... | July 8, 2005; 6:00 p.m. ET |
| Mock Auction | August 1, 2005 |
| Auction Begins..... | August 3, 2005 |

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. Eastern Time (ET), June 9, 2005.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, July 8, 2005.
- Comply with all provisions outlined in this public notice.

⁷⁵ See Request of Southern Communications Services, Inc. and the United Telecom Council for Postponement of Auction No. 55, Order, 18 FCC Rcd 25,880 (2003).

⁷⁶ See 47 U.S.C. § 309(j)(3)(A)-(D). See also 47 U.S.C. § 309(j)(15).

⁷⁷ See "FCC Announces New Integrated Spectrum Auction System," *Public Notice*, DA 05-454 (rel. Feb. 18, 2005).

6. General Contact Information

GENERAL AUCTION INFORMATION

General Auction Questions
Seminar Registration

FCC Auctions Hotline
(888) 225-5322, option two;
or (717) 338-2888
Hours of service: 8:00 a.m. – 5:30 p.m. ET,
Monday through Friday

AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations

Auctions and Spectrum Access Division
(202) 418-0660

LICENSING INFORMATION

Rules, Policies, Regulations
Licensing Issues
Due Diligence
Incumbency Issues

Public Safety and Critical Infrastructure Division
(202) 418-0680

TECHNICAL SUPPORT

Electronic Filing
FCC Auction System

FCC Auctions Technical Support Hotline
(877) 480-3201, option nine; or (202) 414-1250
(202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

PAYMENT INFORMATION

Wire Transfers
Refunds

FCC Auctions Accounting Branch
(202) 418-0578
(202) 418-2843 (Fax)

TELEPHONIC BIDDING

Will be furnished only to qualified bidders

FCC COPY CONTRACTOR

Additional Copies of
Commission Documents

Best Copy and Printing, Inc
445 12th Street, SW, Room CY-B402
Washington, DC 20554
(800) 378-3160
<http://www.bcpweb.com>

PRESS INFORMATION

Lauren Patrich (202) 418-7944

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://wireless.fcc.gov/uls>

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

A party's application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits.⁷⁸ In addition, for Auction No. 61, if an applicant claims eligibility for a bidding credit, the information provided will be used in determining whether the applicant is eligible for the claimed bidding credit. Applicants to participate in Auction No. 61 must file FCC Form 175 electronically by 6:00 p.m. ET on June 9, 2005. Applicants bear full responsibility for submission of timely and complete FCC Form 175 applications. 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.⁷⁹ Applicants should read the instructions set forth in Attachment C to this public notice carefully and should consult the rules to ensure that, in addition to the materials described below, all the information that is required under the Commission's rules is included with their FCC Form 175 applications.

An entity may not submit more than one short-form application in a single auction. In the event that a party submits multiple FCC Forms 175, such additional applications will be dismissed.

Applicants should further note that 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, its certifications and any 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.

A. Preferences for Small Businesses and Others

1. Size Standards for Bidding Credits

In the *Public Coast Third Report and Order and Memorandum Opinion and Order*, the Commission adopted bidding credits to promote and facilitate the participation of small businesses in auctions of public coast licenses.⁸⁰ A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.⁸¹

For Auction No. 61 bidding credits will be available to small businesses and very small businesses, or consortia thereof, as follows:

- A bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years ("very small business") will receive a 35 percent discount on its winning bids.⁸²

⁷⁸ See 47 C.F.R. § 1.2105.

⁷⁹ See *id.*

⁸⁰ *Public Coast Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19,884 ¶ 64; see 47 C.F.R. §§ 80.1251, 80.1252(a).

⁸¹ 47 C.F.R. § 1.2110(f).

⁸² 47 C.F.R. § 1.2110(f)(2)(i).

- A bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years (“small business”) will receive a 25 percent discount on its winning bids.⁸³

Bidding credits are not cumulative; a qualifying applicant receives the 35 percent or 25 percent bidding credit on its winning bid, but only one credit per license.

Applicants should note that they will be required to provide information regarding revenues attributable to the applicant and related parties on their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as a small business or very small business (or consortia of a small business or very small business) for this auction.⁸⁴ See Bidding Credit Revenue Disclosures section, below and Attachment C.

2. Tribal Lands Bidding Credit

To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit. *See* Section V.E. of this Public Notice.

3. Installment Payments

Installment payment plans will not be available in Auction No. 61.

B. License Selection

In Auction No. 61, applicants must select the licenses on which they want to bid from the “Eligible Licenses” list. The applicant may select all the licenses in the list (by using the **SELECT ALL** option) or select and add individual licenses from the list. Be advised that there is no opportunity to change license selection after the short-form filing deadline.⁸⁵ It is critically important that you confirm your license selection because the FCC Auction System will not accept bids on licenses that an applicant has not selected on its FCC Form 175.

C. Consortia and Joint Bidding Arrangements

Applicants will be required to indicate on their applications whether they have 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 licenses on which they will or will not bid.⁸⁶ Applicants will also 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 that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure.⁸⁷ 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 such discussions with applicants for any of the same geographic license areas after the deadline.⁸⁸

⁸³ 47 C.F.R. § 1.2110(f)(2)(ii).

⁸⁴ 47 C.F.R. § 1.2105.

⁸⁵ 47 C.F.R. § 1.2105(b)(2).

⁸⁶ 47 C.F.R. § 1.2105(a)(2)(ix).

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

⁸⁸ *See* above Section I.B.2.

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 licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has 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.⁸⁹ While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Ownership Disclosure Requirements

All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by Sections 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to fully disclose information on the real party or parties-in-interest and ownership structure of the bidding entity. The ownership disclosure standards for the short form are set forth in Section 1.2112 of the Commission's rules.⁹⁰ To simplify filling out Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with Form 175, such as information submitted in an on-line Form 602, will automatically be entered into Form 175. Applicants are responsible for information submitted in Form 175 being complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing Form 175. Applicants can update any information that needs to be changed directly in the Form 175.

E. Bidding Credit Revenue Disclosures

Entities applying to bid as small businesses or very small businesses (or consortia of small businesses or very small businesses) will be required to disclose on their FCC Form 175 short-form applications the gross revenues for the preceding three years of each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. **Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. In order to comply with disclosure requirements for bidding credit eligibility, an applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, the gross revenues for each of the preceding three years.** If the applicant is applying as a consortium of small businesses or very small businesses, this information must be provided for each consortium member.

Controlling interest standard. The Commission uses a "controlling interest" standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions.⁹¹ The Commission has modified its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes included exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met.⁹² The Commission also clarified that in calculating an

⁸⁹ 47 C.F.R. § 1.2105(c)(4)(i), (ii).

⁹⁰ 47 C.F.R. § 1.2105 requires the disclosure on the short-form of the applicant's ownership information as set forth in 47 C.F.R. § 1.2112.

⁹¹ *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15323-27, ¶¶ 59-67.

⁹² *Order on Reconsideration of the Part 1 Fifth Report and Order*, 18 FCC Rcd at 10186-194 ¶¶ 10-18; *Second Order on Reconsideration of the Fifth Report and Order*, 20 FCC Rcd 1942 (2005).

applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors will not be attributed to the applicant.⁹³

Control. The term "control" includes both *de facto* and *de jure* control of the applicant. Typically, **ownership of at least 50.1 percent of an entity's voting stock evidences *de jure* control.** *De facto* control is determined on a case-by-case basis.⁹⁴ The following are some common indicia of *de facto* control:

- the entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- the entity plays an integral role in management decisions.

Attribution for small business and very small business eligibility. In determining which entities qualify as small businesses or very small businesses, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates will be counted in determining small business eligibility.

A consortium of small businesses or very small businesses is a "conglomerate organization formed as a joint venture between or among mutually independent business firms," each of which **individually** must satisfy one of the definitions of small business or very small business in Sections 1.2110(f), 80.1252. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small business or very small business, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

F. Provisions Regarding Former and Current Defaulters

Each applicant must indicate on its FCC Form 175 application under penalty of perjury whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency.⁹⁵ In addition, each applicant must certify on its FCC Form 175 application under penalty of perjury that the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110, is not in default on any payment for Commission licenses (including down payments) and that it is not delinquent on any non-tax debt owed to any Federal

⁹³ *Order on Reconsideration of the Part 1 Fifth Report and Order*, 18 FCC Rcd at 10185-186 ¶¶ 8-9. However, to the extent that the officers and directors of the applicant are controlling interest holders of other entities, the gross revenues of those entities will be attributed to the applicant.

⁹⁴ For further guidance on the issue of *de facto* control, see the Commission's affiliation rule at 47 C.F.R. §1.2110(b)(5); *see also Intermountain Microwave*, 12 FCC 2d. 559, 560 (1963) and Application of Baker Creek Communications, L.P., for Authority to Construct and Operate Local Multipoint Distribution Services in Multiple Basic Trading Areas, *Memorandum Opinion and Order*, 13 FCC Rcd 18709 (1998).

⁹⁵ 47 C.F.R. § 1.2105(a)(2)(xi); *Order on Reconsideration of the Part 1 Third Report and Order*, 15 FCC Rcd at 15317, n. 142.

agency.⁹⁶ Prospective applicants are reminded that 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. 61, provided that they are otherwise qualified. However, as discussed *infra* in Section III.E.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.⁹⁷

“Current defaulters” — *i.e.*, applicants, including their attributable interest holders, that are in default on any payment for Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency — are not eligible to bid in Auction No. 61.⁹⁸

Applicants are encouraged to review the Bureau’s previous guidance on default and delinquency disclosure requirements in the context of our short-form application process.⁹⁹ Applicants are reminded that the Commission’s Red Light Display System, which provides information regarding debts owed to the Commission, may not be determinative of an applicant’s ability to comply with the default and delinquency disclosure requirements.¹⁰⁰

G. Other Information

Applicants owned by minorities or women, as defined in Section 1.2110(c)(2), may identify themselves in filling out their FCC Form 175 short-form application regarding this status.¹⁰¹ This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions.

⁹⁶ 47 C.F.R. § 1.2105(a)(2)(x); Amendment of Part 1 of the Commission’s Rule — 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, 15317 ¶ 42 (“*Order on Reconsideration of the Part 1 Third Report and Order*”).

⁹⁷ 47 C.F.R. § 1.2106(a).

⁹⁸ 47 C.F.R. § 1.2105(b)(1); 47 C.F.R. § 1.2105(a)(2)(x); *see Part 1 Fifth Report and Order*, 15 FCC Rcd at 15317 n.142 (“If any one of an applicant’s controlling interests or their affiliates...is in default on any Commission licenses or is delinquent on any non-tax debt owed to any Federal agency at the time the applicant files it[s] Form 175, the applicant will not be able to make the certification required by Section 1.2105(a)(2)(x)...and will not be eligible to participate in Commission auctions.”)

⁹⁹ *See* “WTB Reminds Prospective Broadband PCS Spectrum Auction Applicants of Default and Delinquency Disclosure Requirements,” *Public Notice*, 19 FCC Rcd 21920 (WTB 2004) (providing information on compliance with the default and delinquency disclosure requirements for auction applicants in Auction No. 58); Letter to Cheryl A. Tritt, Esq. from Margaret Wiener, 19 FCC Rcd 22907 (WTB-ASAD 2004) (clarifying the term “debt” or “non-tax debt” as referenced in Sections 1.2105(a) and 1.2106(a) of the Commission’s rules).

¹⁰⁰ *See* “WTB Reminds Prospective Broadband PCS Spectrum Auction Applicants of Default and Delinquency Disclosure Requirements,” *Public Notice*, 19 FCC Rcd 21920 (WTB 2004) (addressing relationship between Commission’s Red Light Display System and Form 175 default and delinquency disclosure requirements for auction applicants).

¹⁰¹ 47 C.F.R. § 1.2110(c)(2).

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

After the short-form filing deadline (6:00 p.m. ET June 9, 2005), applicants may make only minor changes to their applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).¹⁰² Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and addresses and phone numbers of the applicants and their contact persons. Applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with a unique file number. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction61@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 61 and the name of the applicant. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

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

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. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications¹⁰³ 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 — May 25, 2005

On Wednesday, May 25, 2005, the FCC will sponsor a seminar for parties interested in participating in Auction No. 61 at the Federal Communications Commission, located at 445 12th Street, SW, Washington, DC. The seminar will provide attendees with information about pre-auction procedures, completing FCC Form 175, auction conduct, the FCC Auction System, auction rules, and the AMTS service rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

To register, complete the registration form attached hereto as Attachment B and submit it by Monday, May 23, 2005. Registrations are accepted on a first-come, first-served basis. The seminar is free of charge.

For individuals who are unable to attend, Audio/Video of this seminar will be available via webcast from the FCC's Audio/Video Events page at <http://www.fcc.gov/realaudio/>.

B. Short-Form Application (FCC Form 175) — Due June 9, 2005

In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically¹⁰⁴ and received at the Commission no later than 6:00 p.m. ET on June 9, 2005. **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 Section III.E, *below*.

¹⁰² See 47 C.F.R. § 1.2105.

¹⁰³ See 47 C.F.R. § 1.2105(b)(2),

¹⁰⁴ 47 C.F.R. § 1.2105(a).

Applications may generally be filed at any time beginning at noon ET on May 25, 2005, until 6:00 p.m. ET on June 9, 2005. 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 9, 2005.

Applicants must always press the **SUBMIT** button on the Certify & Submit screen of the electronic form to successfully submit their FCC Form 175s or modifications. Any form that is not submitted will not be reviewed by the FCC. Information about accessing, completing, and viewing the FCC Form 175 is included in Attachment C. Technical support is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, **all calls to the hotline are recorded.**

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; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for resubmitting such corrected applications.

As described more fully in the Commission's rules, after the June 9, 2005, 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 license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).¹⁰⁵

D. Upfront Payments — Due July 8, 2005

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 8, 2005.**

1. Making Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on July 8, 2005. 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:

¹⁰⁵ 47 C.F.R. § 1.2105; *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
500 Ross St.
Pittsburgh, PA 15262
BENEFICIARY: FCC/Account # 910-0180
OBI Field: (Skip one space between each information item)
“AUCTIONPAY”
APPLICANT FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 21)
PAYMENT TYPE CODE (same as FCC Form 159, block 24A: A61U)
FCC CODE 1 (same as FCC Form 159, block 28A: “61”)
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 2/03) 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. 61.” In order to meet the Commission’s upfront payment deadline, an applicant’s payment must be credited to the Commission’s account by the deadline.¹⁰⁶ **Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.**

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. 61 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 8, 2005, deadline will result in dismissal of the application and disqualification from participation in the auction.

2. FCC Form 159

A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be faxed to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment D to this public notice. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

¹⁰⁶ See Letter from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, to Patrick Shannon, Esq., Counsel for Lynch 3G Communications Corporation, 18 FCC Rcd 11552 (2003).

3. Amount of Upfront Payment

In the *Part 1 Order* the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction.¹⁰⁷ 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 50 percent greater than non-“former defaulters.”¹⁰⁸ 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.¹⁰⁹

In the *Auction No. 61 Comment Public Notice*, we proposed that the amount of the upfront payment would determine a bidder’s initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids.¹¹⁰ In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have a current eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant’s total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold provisionally winning bids at any given time.¹¹¹

In the *Auction No. 61 Comment Public Notice*, the Bureau proposed upfront payments on a license-by-license basis using a formula based on bandwidth and the license area population:¹¹²

\$0.005 * MHz * License Area Population with a minimum of \$1,000 per license.

The specific upfront payments and bidding units for each license are set forth in Attachment A of this Public Notice.¹¹³

In calculating its upfront payment amount, an applicant should determine the **maximum** number of bidding units on which it may wish to be active on (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid

¹⁰⁷ Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Proceeding, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd 5686, 5697-98 ¶ 16 (1997) (“*Part 1 Order*”).

¹⁰⁸ *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17 ¶¶ 40-42; 47 C.F.R. § 1.2106(a); *see* 47 C.F.R. § 1.2105(a)(2)(xi).

¹⁰⁹ 47 C.F.R. § 1.2110(b).

¹¹⁰ *Auction No. 61 Comment Public Notice* at 3.

¹¹¹ Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. (*See* below Section IV.B.4).

¹¹² All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. *See* Census 2000 Summary File 1 (SF1) and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

¹¹³ Results are rounded using our standard rounding procedure: 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.

in any given round. **Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.**

| Example: Upfront Payments and Bidding Flexibility | | | | |
|--|--------------|--------------------|----------------------|------------------------|
| Market Number | Block | Market Name | Bidding Units | Upfront Payment |
| AMTSA001 | A | Northern Atlantic | 184,000 | \$184,000 |
| AMTSA006 | A | Southern Pacific | 170,000 | \$170,000 |

If a bidder wishes to bid on both licenses in a round, it must have selected both on its FCC Form 175 and purchased at least 354,000 bidding units (184,000 + 170,000). If a bidder only wishes to bid on one, but not both, purchasing 184,000 bidding units would meet the requirement for either license. The bidder would be able to bid on either license, **but not both at the same time**. If the bidder purchased only 170,000 bidding units, it would have enough eligibility for the Southern Pacific license but not for the Northern Atlantic license.

Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units on which they wish to be active by 1.5.¹¹⁴ 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. If a former defaulter fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the licenses applied for on its Form 175, the applicant will not be eligible to participate in the auction.

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

The Commission will use wire transfers for all Auction No. 61 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, at (202) 418-2843. 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.

- Name of Bank
- ABA Number
- Address of Bank
- 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)
- ABA Number
- Account Number

¹¹⁴ 47 C.F.R. § 1.2106(a).

(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.)¹¹⁵ Eligibility for refunds is discussed in Section V.G., *below*.

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 have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. **The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecureID cards which will be required to place bids (or access the FCC Auction System) and the telephonic bidding phone number.**

Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, July 28, 2005, should contact the Auctions Hotline at (717) 338-2888. Receipt of this registration mailing 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 SecurID cards can be replaced only by appearing **in person** at the FCC headquarters, located at 445 12th St., SW, Washington, DC 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. Qualified bidders are permitted to bid telephonically or electronically. Each applicant should indicate its bidding preference – electronic or telephonic – on the FCC Form 175. 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, the telephonic bidding phone number, and the Integrated Spectrum Auctions System (ISAS) Bidder's Guide 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. 61.

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 Monday, August 1, 2005. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

¹¹⁵ 47 C.F.R. §1.1910.

IV. AUCTION EVENT

The first round of bidding for Auction No. 61 will begin on Wednesday, August 3, 2005. 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. 61 Comment Public Notice*, we proposed to award all licenses in Auction No. 61 in a simultaneous multiple round auction.¹¹⁶ In a simultaneous multiple round auction, all licenses are available during the entire auction, and bids are accepted on any license until the auction concludes. We conclude that it is operationally feasible and appropriate to auction the AMTS licenses through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

2. Eligibility and Activity Rules

In the *Auction No. 61 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the initial (maximum) eligibility (as measured in bidding units) for each bidder.¹¹⁷ We received no comments on this issue.

For Auction No. 61 we adopt this proposal. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A on a bidding unit per dollar basis. Bidding units for a given license do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that total number of bidding units. **The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.**

In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the provisionally winning bidder at the end of the previous bidding round and does not withdraw the provisionally winning bid in the current round, or if it submits a bid in the current round (*see* "Minimum Acceptable Bid Amounts and Bid Increment Amounts" in Section IV.B.3, *below*). The minimum required activity is expressed as a percentage of the bidder's current eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions

¹¹⁶ *Auction No. 61 Comment Public Notice* at 3.

¹¹⁷ *Id.* at 3.

(as set forth under “Auction Stages” in Section IV.A.3 and “Stage Transitions” in Section IV.A.4, *below*), we adopt them for Auction No. 61.

3. Auction Stages

In the *Auction No. 61 Comment Public Notice*, we proposed to conduct the auction in two stages and employ an activity rule. We further proposed that, in each round of Stage One, a bidder desiring to maintain its current bidding eligibility would be required to be active on licenses representing at least 80 percent of its current bidding eligibility.¹¹⁸ Finally, we proposed that in each round of Stage Two, a bidder desiring to maintain its current bidding eligibility would be required to be active on at least 90 percent of its current bidding eligibility. We received no comments on this proposal.

We adopt our proposals for the activity rules and stages. Below are the activity levels for each stage of the auction. The Bureau reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current bidding eligibility will be required to be active on licenses representing at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder’s bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder’s current round activity (the sum of bidding units of the bidder’s provisionally winning bids and bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder’s bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder’s current round activity (the sum of bidding units of the bidder’s provisionally winning bids and bids during the current round) by ten-ninths (10/9).

CAUTION: Since activity requirements increase in Stage Two, bidders must carefully check their activity during the bidding period of the first round following a stage transition to ensure that they are meeting the increased activity requirement. This is especially critical for bidders that have provisionally winning bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by either logging in to the FCC Auction System or by accessing the “Bidder Summaries” on the public results page.

Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 61.

4. Stage Transitions

In the *Auction No. 61 Comment Public Notice*, we proposed that the auction would generally advance to the next stage (*i.e.*, from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new provisionally winning bids, is approximately 20 percent or below for three consecutive rounds of bidding in each Stage. We further proposed that the Bureau would retain the discretion to change stages unilaterally by announcement during the auction. This determination, we proposed, would be based on a variety of measures of bidder activity, including, but not limited to, the

¹¹⁸ *Id.* at 4.

auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.¹¹⁹ We received no comments on this issue.

We adopt our proposal. Thus, the auction will start in Stage One and will generally advance to the next stage (*i.e.*, from Stage One to Stage Two) when, in each of three consecutive rounds of bidding, the provisionally winning bids have been placed on 20 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids,¹²⁰ the number of new bids, and the percentage increase in revenue. We believe that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 61.

5. Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 61 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.¹²¹ We received no comments on this issue.

Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided three activity rule waivers. Bidders may use an activity rule waiver 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 minimum activity level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either applied proactively by the bidder (known as a "proactive waiver") or applied automatically by the FCC Auction System (known as an "automatic waiver") and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round. 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 Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a 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 available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not satisfy the required activity level, the eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction.

A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the bidding round by using the "reduce eligibility" function in the FCC Auction System. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (*see* Section IV.A.3 *above*). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

¹¹⁹ *Id.* at 4.

¹²⁰ When monitoring activity for determining when to change stages, we may consider the percentage of bidding units of the licenses receiving new provisionally winning bids, excluding any FCC-held licenses.

¹²¹ *Auction No. 61 Comment Public Notice* at 4-5.

Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the “apply waiver” function in the FCC Auction System) during a bidding round in which no bids or withdrawals are submitted, the auction will remain open and the bidder’s eligibility will be preserved. However, an automatic waiver applied by the FCC Auction System in a round in which there are no new bids or withdrawals will not keep the auction open. **Note: Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.**

6. Auction Stopping Rules

For Auction No. 61, the Bureau proposed to employ a simultaneous stopping rule approach.¹²² The Bureau also sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, places a withdrawal, or submits any new bids on any license on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous provisionally winning bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had applied a 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 Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (“special stopping rule”). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

We proposed to exercise these options 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.¹²³ Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity.

We received no comments concerning the auction stopping rules; therefore we adopt the above proposals. Auction No. 61 will begin under the simultaneous stopping rule approach, and the Bureau 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. 61, because our experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

7. Auction Delay, Suspension, or Cancellation

In the *Auction No. 61 Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureau 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 conduct of competitive bidding.¹²⁴

¹²² *Id.* at 9.

¹²³ *Id.* at 9.

¹²⁴ *Id.* at 5.

Because our approach to notification of delay during an auction 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 Bureau 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 Bureau, in its 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 Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, 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 schedule of bidding rounds 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 round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

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 Bureau 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

Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses 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.¹²⁵ Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.¹²⁶ Among other factors, the Bureau 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.¹²⁷ The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.¹²⁸

In the *Auction No. 61 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 61 and to retain discretion to lower the minimum opening bids.¹²⁹ Specifically, for Auction

¹²⁵ 47 U.S.C. § 309(j)(4)(F).

¹²⁶ 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 375, 455-456 ¶ 141 (1997) (“*Part 1 Third Report and Order*”).

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Auction No. 61 Comment Public Notice* at 6-7.

No. 61, the Bureau proposed the following license-by-license basis using a formula based on bandwidth and license area population.¹³⁰

$\$0.005 * \text{MHz} * \text{License Area Population}$ with a minimum of \$1,000 per license.

In the alternative, the Bureau sought comment on whether, consistent with the Section 309(j), the public interest would be served by having no minimum opening bid or reserve price.¹³¹

We adopt our proposal. The minimum opening bid amounts we adopt for Auction No. 61 are reducible at the discretion of the Bureau. 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 requests to reduce the minimum opening bid amount on specific licenses.

The specific minimum opening bid amounts for each license available in Auction No. 61 are set forth in Attachment A.¹³²

3. Minimum Acceptable Bid Amounts and Bid Increment Amounts

In the *Auction No. 61 Comment Public Notice*, we proposed to use a minimum acceptable bid increment of five percent. This means that the minimum acceptable bid amount for a license will be approximately five percent greater than the provisionally winning bid amount for the license. The minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage – *e.g.*, if the minimum acceptable bid percentage is 5 percent, the minimum acceptable bid amount calculation is (provisionally winning bid amount) * (1 + 0.05), rounded or (provisionally winning bid amount) * (1.05), rounded. We will round the result using our standard rounding procedures.¹³³ We further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if it determines that circumstances so dictate.¹³⁴ We received no comment on this issue. We will begin the auction with a minimum acceptable bid percentage of 5%.

In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts.¹³⁵ The FCC Auction System will list the nine acceptable bid amounts for each license. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount.

The nine acceptable bid amounts for each license consist of the minimum acceptable bid amount and eight other bid amounts based on the bid increment percentage. The first additional acceptable bid amount,

¹³⁰ All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. See Census 2000 Summary File 1 (SF1) and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

¹³¹ *Auction No. 61 Comment Public Notice* at 7.

¹³² Results are rounded using our standard rounding procedure: 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.

¹³³ *Id.*

¹³⁴ *Auction No. 61 Comment Public Notice* at 7.

¹³⁵ Bidders must have sufficient eligibility to place a bid on the particular license. See *supra* Section III.E.3 “Amount of Upfront Payment.”

above the minimum acceptable bid amount, equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded – e.g., if the bid increment percentage is 5 percent, then the next bid amount will equal (minimum acceptable bid amount) * 1.05, rounded, the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.10, rounded; the third additional acceptable bid amount equals the minimum acceptable bid amount times one plus three times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.15, rounded, etc. We will begin the auction with a bid increment percentage of 5%. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

In the case of a license for which the provisionally winning bid amount has been withdrawn,¹³⁶ the minimum acceptable bid amount will equal the amount of the second highest bid amount received for the license. The additional bid amounts above the minimum acceptable bid amount are calculated using the bid increment percentage as described in the previous paragraph.

The Bureau retains the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System. The Bureau may also use its discretion to adjust the minimum bid increment amount without prior notice if circumstances warrant.

4. Provisionally Winning Bids

At the end of each bidding round, a provisionally winning bid amount will be determined based on the highest bid amount received for each license. A high bid from a previous round is referred to as a “provisionally winning bid.” A “provisionally winning bid” will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round. Bidders are reminded that provisionally winning bids are counted as activity for purposes of the activity rule.¹³⁷

In the *Auction No. 61 Comment Public Notice*, the Bureau proposed to use a random number generator to select a provisionally winning bid in the event of identical high bid amounts being submitted on a license in a given round (i.e., tied bids).¹³⁸ No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A Sybase® SQL pseudo-random number generator based on the L’Ecuyer algorithms will be used to assign a random number to each bid.¹³⁹ The tied bid having the highest random number will become the provisionally winning bid. Eligible bidders, including the provisionally winning bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in subsequent rounds, the provisionally winning bid from the previous round will win the license, unless that provisionally winning bid was withdrawn. If any bids are received on the license in a subsequent round, the provisionally winning bid will once again be determined based on the highest bid amount received for the license.

¹³⁶ See *infra* Section IV.B.6 “Bid Removal and Bid Withdrawal.”

¹³⁷ See *supra* Section IV.A.2.

¹³⁸ *Auction No. 61 Comment Public Notice* at 8.

¹³⁹ A description of the L’Ecuyer algorithms can be found in L’Ecuyer, P. (1999) “Good Parameters and Implementations for Combined Multiple Recursive Random Number Generators” *Operations Research* 47 (1), pp.159-164. A longer version of this paper and the C code for the algorithms can be found on the author’s website at <http://www.iro.umontreal.ca/~lecuyer/papers.html>.

5. Bidding

During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw provisionally winning bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single license 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 licenses for which the bidder has removed or withdrawn 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 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, five to ten minutes are necessary to complete a telephonic bid submission). There will be no on-site bidding during Auction No. 61.

A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (1) the licenses applied for on FCC Form 175 and (2) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the password generated by the SecurID card and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a "round summary" 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 license in any of nine different amounts.¹⁴⁰ For each license, the FCC 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 Auction System also includes an "upload" function that allows bidders to upload text files containing bid information.

Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount. Once there is a provisionally winning bid on a license, the FCC Auction System will calculate a minimum acceptable bid amount for that license for the following round, as described in Section IV.B.3.

Finally, bidders are cautioned to select their bid amounts carefully because, as explained in the following section, bidders that withdraw a provisionally winning bid from a previous round, even if the bid was mistakenly or erroneously made, are subject to bid withdrawal payments.

6. Bid Removal and Bid Withdrawal

In the *Auction No. 61 Comment Public Notice*, the Commission proposed bid removal and bid withdrawal procedures.¹⁴¹ With respect to bid withdrawals, the Commission proposed limiting each bidder to withdrawals in no more than one round during the course of the auction. The round in which withdrawals are used would be at the bidder's discretion. We received no comments on this issue.

¹⁴⁰ Bidders must have sufficient eligibility to place a bid on the particular license. *See supra* Section III.E.3 "Amount of Upfront Payment."

¹⁴¹ *Auction No. 61 Comment Public Notice* at 8.

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 bids” function in the FCC Auction System, a bidder may effectively “unsubmit” any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder’s activity for the round in which it is removed, *i.e.*, a bid that is removed does not count toward bidding activity. These procedures will enhance bidder flexibility during the auction, and therefore we adopt them for Auction No. 61.

Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw provisionally winning bids from previous rounds using the “withdraw bids” function in the FCC Auction System (assuming that the bidder has not reached its withdrawal limit). A provisionally winning bidder that withdraws its provisionally winning bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). **Note: Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.**

In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various licenses in combination, we conclude that, for Auction No. 61, adoption of a limit on the use of withdrawals to one round per bidder is appropriate. By doing so we believe we strike a reasonable compromise that will allow bidders to use withdrawals. Our decision on this issue is based upon our experience in prior auctions, particularly the PCS D, E and F block and 800 MHz SMR auctions, and is in no way a reflection of our view regarding the likelihood of any speculation or “gaming” in this auction.

The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to one round. The round will be at the bidder’s discretion and there will be no limit on the number of bids that may be withdrawn in the round. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). Bidders should note that abuse of the Commission’s bid withdrawal procedures could result in the denial of the ability to bid on a market.

If a provisionally winning bid is withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid received for the license, which may be less than, or in the case of tied bids, equal to, the amount of the withdrawn bid.¹⁴² To set the additional bid amounts, the second highest bid amount also will be used in place of the provisionally winning bid in the formula used to calculate bid increment amounts. The Commission will serve as a “place holder” provisionally winning bidder on the license until a new bid is submitted on that license.

Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction.¹⁴³ If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the provisionally winning bid in the same or subsequent auction(s).¹⁴⁴ In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that

¹⁴² The Bureau retains the discretion to lower the minimum acceptable bid on such licenses in the next round or in later rounds.

¹⁴³ 47 C.F.R. §§ 1.2104(g), 1.2109.

¹⁴⁴ The payment will equal the lower of: (1) the difference between the net withdrawn bid and the subsequent net winning bid; or (2) the difference between the gross withdrawn bid and the subsequent gross winning bid. *See* 47 C.F.R. § 1.2104(g)(1).

withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s).¹⁴⁵ This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

Section 1.2104(g)(1) of the rules sets forth the payment obligations of a bidder that withdraws a high bid on a license during the course of an auction, and provides for the assessment of interim bid withdrawal payments.¹⁴⁶ As amended, Section 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. Section 1.2104(g) provides specific examples showing application of the bid withdrawal payment rule.¹⁴⁷

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 Bureau will compile reports of all bids placed, bids withdrawn, current provisionally winning bids, new minimum acceptable bid amounts, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 61 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 and stage transitions. All FCC auction announcements will be available by clicking a link in the FCC 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, deletion and addition of authorized bidders (to a maximum of three). Applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auktion61@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 61 and the name of the applicant. The Bureau requests that parties format any attachments to electronic mail as Adobe[®] Acrobat[®] (pdf) or Microsoft[®] Word documents.

¹⁴⁵ See following paragraph for discussion of interim bid withdrawal payments.

¹⁴⁶ 47 C.F.R. § 1.2104(g)(1); see *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15302 ¶ 15.

¹⁴⁷ 47 C.F.R. § 1.2104(g).

V. POST-AUCTION PROCEDURES

A. Down Payments and Withdrawn Bid Payments

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

Within ten business days after release of the auction closing 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. 61 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business, or very small business bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 C.F.R. § 1.2104(g), as discussed in “Bid Removal and Bid Withdrawal,” Section IV.B.6. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Final Payments

Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 601)

Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) for each license won through Auction No. 61. Winning bidders that are small businesses or very small businesses must demonstrate their eligibility for small business or very small business bidding credits. *See* 47 C.F.R. § 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

D. Ownership Disclosure Information Report (FCC Form 602)

At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 C.F.R. §§ 1.913, 1.919, and 1.2112. An ownership disclosure record was automatically created in the Universal Licensing System (ULS) for any applicant that submitted an FCC Form 175. However, winning bidders will be required to review and confirm that it is complete and accurate as of the date of filing Form 601. Further instructions will be provided to auction winning bidders at the close of the auction.

E. Tribal Land Bidding Credit

A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally recognized tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or below 85 percent is eligible to receive a tribal land bidding credit as set forth in 47 C.F.R. §§ 1.2107 and 1.2110(f). A tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal land bidding credit **after** winning the auction when it files its long-form application (FCC Form 601). When initially filing the long-form application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal land bidding credit, for each market won in the auction, by checking the designated box(es). After stating its intent to seek a tribal land bidding credit, the applicant will have 180 days from the close of the long-form filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees

receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 C.F.R. § 1.2110(f)(3)(vi).¹⁴⁸

For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices.¹⁴⁹ Relevant documents can be viewed on the Commission's web site by going to <http://wireless.fcc.gov/auctions> and clicking on the **Tribal Land Credits** link.

F. 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 may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid.¹⁵⁰ 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 held by the applicant.¹⁵¹

G. Refund of Remaining Upfront Payment Balance

All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 61 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from the applicant after any applicable bid withdrawal payments have been paid. 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.

Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a provisionally winning bid during the auction 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 requests to:

¹⁴⁸ See also 47 C.F.R. § 1.2110(f)(3)(ii) & (vii).

¹⁴⁹ See generally, Extending Wireless Telecommunications Services to Tribal Lands, Third Report and Order, 19 FCC Rcd 17,652 (2004); Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 4775, 4778-79 ¶ 10 (2003); Report and Order and Further Notice of Proposed Rule Making, 15 FCC Rcd 11,794 (2000). See also "Wireless Telecommunications Bureau Announces Enhancements to the Universal Licensing System to Help Winning Bidders of FCC Auctions File for Tribal Land Bidding Credits," Public Notice, 16 FCC Rcd 5355 (2001); "Wireless Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands," Public Notice, 15 FCC Rcd 24,838 (2000); "Wireless Telecommunications Bureau Announces Availability of Bidding Credits For Providing Wireless Services To Qualifying Tribal Lands: Tribal Land Bidding Credits To Be Available Beginning In Auction No. 36 (800 MHz Specialized Mobile Radio (SMR) Lower 80 Channels) And In Future Auctions," Public Notice, 15 FCC Rcd 18351 (2000).

¹⁵⁰ See 47 C.F.R. § 1.2109(b) and (c).

¹⁵¹ 47 C.F.R. § 1.2109(d).

Federal Communications Commission
Financial Operations Center
Auctions Accounting Group
Gail Glasser
445 12th Street, SW, Room 1-C864
Washington, DC 20554

Bidders are encouraged to file their refund information electronically using the **Refund Information** icon in 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.

Media Contact:

For press inquiries: Lauren Patrich at (202) 418-7944

Auctions and Spectrum Access Division:

For legal questions: Howard Davenport at (202) 418-0660

For general auction questions: Debbie Smith, Roy Knowles or Barbara Sibert at (717) 338-2888

Public Safety and Critical Infrastructure Division:

For legal questions: Jeff Tobias at (202) 418-0680

For technical questions: James Shaffer at (202) 418-0680

- FCC -

VI. ATTACHMENT A

Auction No. 61 – AMTS Licenses to be Auctioned

| Market Number | Description | License Number | Frequencies (MHz) | Channel Block | Population | Bandwidth (MHz) | Bidding Units | Upfront Payment | Minimum Opening Bid |
|----------------------|--------------------|-----------------------|-------------------------------|----------------------|-------------------|------------------------|----------------------|------------------------|----------------------------|
| AMTSA001 | Northern Atlantic | PC-AMT001-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 36,719,116 | 1.0 | 184,000 | \$184,000 | \$184,000 |
| AMTSA002 | Mid-Atlantic | PC-AMT002-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 31,253,086 | 1.0 | 156,000 | \$156,000 | \$156,000 |
| AMTSA003 | Southern Atlantic | PC-AMT003-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 29,648,771 | 1.0 | 148,000 | \$148,000 | \$148,000 |
| AMTSA004 | Mississippi River | PC-AMT004-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 84,102,559 | 1.0 | 421,000 | \$421,000 | \$421,000 |
| AMTSA005 | Great Lakes | PC-AMT005-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 37,000,865 | 1.0 | 185,000 | \$185,000 | \$185,000 |
| AMTSA006 | Southern Pacific | PC-AMT006-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 33,997,444 | 1.0 | 170,000 | \$170,000 | \$170,000 |
| AMTSA007 | Northern Pacific | PC-AMT007-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 9,518,894 | 1.0 | 48,000 | \$48,000 | \$48,000 |
| AMTSA008 | Hawaii | PC-AMT008-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 1,211,537 | 1.0 | 6,100 | \$6,100 | \$6,100 |
| AMTSA008 | Hawaii | PC-AMT008-B | 217.0 - 217.5 / 219.0 - 219.5 | B | 1,211,537 | 1.0 | 6,100 | \$6,100 | \$6,100 |
| AMTSA009 | Alaska | PC-AMT009-A | 217.5 - 218.0 / 219.5 - 220.0 | A | 626,932 | 1.0 | 3,100 | \$3,100 | \$3,100 |

Auction Total

1,327,300 \$1,327,300 \$1,327,300

VII. ATTACHMENT B

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 61

The FCC will sponsor a one-day seminar for Auction No. 61 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 Auction System.

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

Wednesday, May 25, 2005
Federal Communications Commission
445 12th Street, SW Room TW-438/468
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
Monday, May 23, 2005, by fax to:

FCC Auction 61
Auctions and Spectrum Access Division
1270 Fairfield Road
Gettysburg, PA 17325-7245

FAX: 717-338-2850
Phone: 717-338-2888

I/We will attend the Auction No. 61 Seminar, scheduled for Wednesday, May 25, 2005.

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, via the Internet. **FCC Form 175 applications must be submitted and confirmed by 6:00 p.m. ET on Thursday, June 9, 2005.** Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants may make changes to their Form 175 applications multiple times and until the close of the filing window. However, applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission.

Software Requirements

Applicants are reminded to meet the following minimum software requirements:

- Web Browser, either of the following:
 - Microsoft® Internet Explorer 6.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.4.1_02 installed.
 - Netscape® Communicator™ 6.0 or higher, with Java Plug-In Version 1.4.1_02.

Java Plug-In Version 1.4.1_02 is available for downloading at http://java.sun.com/products/archive/j2se/1.4.1_02/index.html (choose the JRE version).

- PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)

A. Logging On

To submit an FCC Form 175 application 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). Once on the FCC Integrated Spectrum Auction System page, applicants may log in to create Form 175 applications using their FRNs and passwords.

B. Application Filing Instructions

The on-line FCC Form 175 requests information needed to determine whether an applicant qualifies to participate in competitive bidding for Commission licenses or construction permits.¹⁵² Pursuant to Section 1.2105(a), Form 175 must be submitted electronically. The screens comprising Form 175 consist of five series, each requesting five separate types of information: 1) *Applicant Information*; 2) *License Selection*; 3) *Agreements*; 4) *Ownership*; and 5) *Certify and Submit*. In addition, *Summary* screens, a sixth series, appear prior to the *Certify and Submit* screens. The *Summary* screens provide an overview of an applicant's Form 175 that facilitates

¹⁵² See generally, 47 C.F.R. § 1.2105.

reviewing and revising specific information, as well as an automated check for certain inconsistencies and omissions in submitted information.

To simplify filling out Form 175, certain initial information applicants provide will be used to determine what additional information is needed. In such circumstances, the applicant's initial information will determine what subsequent screens appear as part of Form 175. For example, a corporate applicant, unlike an individual applicant, must identify a corporate officer or director responsible for the application. If initial information identifies an applicant as an individual, no additional information is needed regarding an additional responsible party. Consequently, in such case, screens requesting information regarding a responsible party will not appear. However, if initial information identifies an applicant as a corporation, subsequent screens in the Form 175 will ask for information regarding the responsible party for the application. Accordingly, at points in the process of filling out Form 175, applicants must provide initial information before they can proceed to subsequent screens.

Applicants should be able to fill out Form 175 by following the instructions below. Additional help in filling out Form 175 can be accessed from Form 175 in two ways: 1) by clicking on the **Help** link in the upper right of any screen, which will open Auction Application Online Filing Help; or 2) by clicking on the text of any **Common Question** link appearing on the right side of the screen. The common questions displayed relate to the current screen and vary from screen to screen. In the event the assistance provided by these sources is insufficient, filers should use the contact information provided in the Procedures Public Notice to obtain additional assistance.

1. Applicant Information

The *Applicant Information* screens are the first series of screens in Form 175. In the *Applicant Information* screens, the applicant will provide information regarding the applicant's legal classification, e.g., individual, corporation, etc.; optional information regarding the applicant's status as a minority- or woman-owned business or as a rural telephone company; the applicant's name, which will be the bidder name during the auction, citizenship (or jurisdiction of formation for legal entities) and address; for applicants that are legal entities, e.g., corporations and partnerships, the name and related information regarding the entity's responsible individual; the name and address of a contact person for communicating with the Commission regarding the applicant's Form 175; the names of up to three persons authorized to bid for the applicant in the auction; the applicant's preference for electronic or telephonic bidding; and whether the applicant claims eligibility for certain types of bidding credits.¹⁵³

Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- Applicants must indicate their legal classification before continuing to subsequent screens, because the legal classification will determine which subsequent screens will appear.
- P.O. Boxes may not be used for an applicant's address.

¹⁵³ See generally, 47 C.F.R. § 1.2105(a)(2)(ii)(A), (iii), and (iv).

- To simplify filling out Form 175, applicants that have the same address as their contact person can click on the **COPY APPLICANT ADDRESS** button to automatically fill in the contact person's address. P.O. Boxes may not be used for a contact person's address.
- Applicants must identify at least one authorized bidder. Applicants may change their authorized bidders at a later date.
- Any qualified bidder may bid either via the Internet or telephone during the auction. Specifying a preference for electronic or telephonic bidding helps the Commission determine the staff required for telephonic bidding.

2. License Selection

The *License Selection* screens make up the second series of screens in Form 175. In the *License Selection* screens, the applicant will identify the licenses the applicant may wish to bid on during the auction. Applicants are not obligated to bid on all licenses selected; however, applicants will not be able to bid on licenses that they have not selected.¹⁵⁴

To participate in an auction, applicants must select at least one license. Until the applicant selects a license, the applicant cannot submit the Form 175. An applicant's license selections cannot be changed after the initial filing window has closed. Therefore, during the initial filing window it is important to carefully review license selections to make sure all the licenses the applicant may wish to bid on have been selected.

The first *License Selection* screen, the *Select Licenses* screen, contains two lists: 1) a list of all licenses on which the applicant may be eligible to bid ("Eligible Licenses"); and 2) a list of all licenses selected by the applicant ("Selected Licenses"). Applicants select licenses by: 1) highlighting the licenses to be selected in the Eligible Licenses list; and then 2) clicking on the **ADD** button to move those licenses to the Selected Licenses list. Applicants can click on the **ADD** button multiple times, so applicants do not need to highlight all the licenses in which they are interested before clicking on the **ADD** button. Licenses can be removed from the list of Selected Licenses by: 1) highlighting the unwanted licenses in Selected Licenses; and then 2) clicking the **REMOVE** button. Applicants can click on the **REMOVE** button multiple times, so applicants do not need to highlight all the unwanted licenses before clicking on the **REMOVE** button.

In either list, applicants can highlight a single license by clicking on it. Applicants can highlight multiple licenses by holding down the control key (Ctrl) and clicking on each license the applicant wants to highlight. Alternatively, if an applicant wants to highlight multiple licenses that appear sequentially in a list, applicants can click on the first license in the sequence and then hold down the shift key while clicking on the last license in the sequence. Finally, applicants can highlight all licenses by clicking on the **SELECT ALL** button.

If the applicant previously has selected licenses, the initial *License Selection* screen will be the *View/Edit License Selections* screen. This screen lists the licenses previously selected for this auction. To select a new license or remove a previously selected license, click the **Edit** icon next to Change Selection at the top-right corner of the list. This will take you to the original *Select Licenses* screen, described above.

¹⁵⁴ See generally, 47 C.F.R. § 1.2105(a)(2)(i).

3. Agreements

The *Agreements* screens are the third series of screens in Form 175. In the *Agreements* screens, applicants will provide information regarding auction-related agreements subject to disclosure under the Commission's rules.¹⁵⁵

On the first screen, applicants must state whether the applicant has any agreements that are subject to disclosure under the Commission's rules by responding yes or no to a question asking whether the applicant has entered into partnerships, joint ventures, consortia or other agreements or understandings of any kind relating to the licenses being auctioned, including any such agreement relating to the post-auction market structure. If an applicant answers "No," the applicant will continue with the Ownership series of screens, described below. If the applicant answers "Yes," the applicant will continue with additional *Agreements* screens described here.

In the additional *Agreements* screens, applicants must provide an identifier naming the agreement and identify the parties, other than the applicant, to the agreement. The identifier can briefly describe the agreement or simply name the agreement for reference; however, the identifier for each agreement must be unique.

Slightly different identifying information is requested in the event the other party to the agreement is an entity or an individual. For either entities or individuals, applicants may provide FCC Registration Numbers (FRN), if available. Providing the FRN helps prevent errors in identification resulting from various parties having similar names or single parties using various names. Providing the party's FRN, if available, is optional.

Up to three parties to the agreement (not including the applicant) can be identified on a single screen. Additional parties can be added by clicking the **ADD MORE PARTIES** button. In the event of an error, the name of a party and its associated FRN can be cleared from the form by clicking on the **RESET** button. After identifying all parties to a particular agreement, click the **FINISH THIS AGREEMENT** button.

The next *Agreements* screen is the *View/Edit Agreements* screen. This screen lists the agreements and parties to each that already have been entered. From this screen, you have the following options:

- Clicking the **Edit** icon or the **Agreements** link to return to the initial *Agreements* screen regarding whether or not the applicant has any agreements.
- Modifying agreement identifiers by clicking on them.
- Clicking the **Delete This Agreement** link to delete an agreement and associated parties.
- Modifying information regarding a particular party to an agreement by clicking on the party's name.
- Clicking the **Remove** icon next to information about a particular party to remove the corresponding party.

¹⁵⁵ See generally, 47 C.F.R. § 1.2105(a)(2) (viii).

- Clicking the **Add Party to This Agreement** link to add a new party to an agreement.
- Clicking the **CREATE NEW AGREEMENT** button to add additional agreements.

When you have identified all agreements and the parties to each, click the **CONTINUE** button.

4. Ownership

The *Ownership* screens are the fourth series of screens in the Form 175. In the *Ownership* screens, applicants will provide information regarding parties with ownership interests in the applicant that must be disclosed pursuant to Commission rules.¹⁵⁶ In part, Commission rules require the disclosure of FCC-regulated businesses that are owned by the applicant and parties with certain ownership interests in the applicant.¹⁵⁷ In addition, if the applicant has claimed eligibility for bidding credits based on revenues attributable to the applicant and related parties, the applicant will provide information regarding revenues in the *Ownership* screens.

a. Information Already On File with the Commission

To simplify filling out Form 175, an applicant's most current Form 602 ownership information on file with the Commission, if in an electronic format compatible with Form 175, will automatically be entered into Form 175. Applicants with ownership information automatically entered into Form 175 will proceed directly to the *View/Edit Ownership* screen described below.

Applicants are responsible for information submitted in Form 175 being complete and accurate. Applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for submitting Form 175. Applicants can update the information directly in the Form 175. After the deadline for filing Form 175, ownership information in a submitted Form 175 will be considered to be the applicant's most current ownership information on file with the Commission.

b. Disclosable Interest Holders and FCC-Regulated Businesses

For an applicant not claiming eligibility for bidding credits based on revenues, the initial *Ownership* screen that appears will enable the applicant to: 1) add information regarding a disclosable interest holder; 2) add information regarding the FCC-regulated businesses owned by the applicant; or 3) upload ownership information from a file prepared by the applicant. Section 1.2112(a) of the Commission's rules lists the interest holders in the applicant that must be disclosed in Form 175.¹⁵⁸ Section 1.2112(a)(7) states the FCC-regulated businesses that must be disclosed in Form 175.

Uploading information from a file prepared by the applicant is an alternative to keying information into particular screens comprising the *Ownership* screens in Form 175. Applicants submitting Ownership Disclosure Information have the option to upload ownership data in a text file, which will then be processed and populated into the system as the applicant's current ownership filing (provided there were no errors). This feature may benefit those applicants who

¹⁵⁶ See generally, 47 C.F.R. §§ 1.2105(a)(2)(ii)(B), 1.2110 and 1.2112.

¹⁵⁷ See 47 C.F.R. § 1.2112.

¹⁵⁸ 47 C.F.R. § 1.2112(a).

have a large amount of ownership data that would otherwise have to be entered into the system manually. It also may benefit those applicants who previously provided ownership data to the FCC in a similar format for other purposes, such as in connection with filing FCC Form 602. Instructions on how to prepare such a file are provided at the end of the instructions regarding *Ownership* screens. After a successful upload, the *Upload Ownership Disclosure Information Confirmation* screen will appear. Applicants then may click the **CONTINUE** button, which loads the *View/Edit Ownership* screen described below.

Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- If an application includes one or more disclosable interest holders with an indirect ownership in the applicant,¹⁵⁹ the application must include an attachment regarding the relationship between the indirect interest holder(s) and the applicant. The attachment should provide an overview of the ownership chain that links the indirect owners to the applicant, *e.g.*, indirect owner X owns 50% of holding company Y; indirect owner Z owns 50% of holding company Y; and holding company Y owns 100% of the applicant.¹⁶⁰ One attachment connecting all indirect owners to the applicant is sufficient; a separate attachment for each indirect owner is not required. An overview of the ownership connections is sufficient; the attachment does not need to duplicate all the detailed information already provided in the Form 175.
- The “Percent of Interest Held in Applicant” should reflect the disclosable interest holder’s aggregate ownership interest in the applicant. In some cases, *e.g.*, circumstances where there is joint ownership or indirect ownership resulting in different owners sharing the same ownership interests, the sum of all the percentages held by disclosable interest holders may exceed 100%. In other cases, *e.g.*, directors and officers of an entity seeking revenue-based bidding credits,¹⁶¹ a disclosable interest holder may have a 0% percent of interest held in the applicant.
- FCC-regulated businesses in which the applicant has an interest can be entered from the initial *Add Ownership Disclosure Information* screen. FCC-regulated businesses in which a disclosable interest holder has an interest can be entered from the *Add FCC Regulated Business* screen in the series of screens for entering information about a Disclosable Interest Holder.
- When adding an FCC-regulated business, “Percent of Interest Held” refers to the percent of interest held by the applicant or disclosable interest holder, as applicable, in the FCC-regulated business.
- To simplify filling out Form 175, applicants can click on the **select business(es) already submitted** link when entering an FCC-regulated business previously entered as an FCC-regulated business for the applicant or another Disclosable Interest Holder. When doing so, be certain to enter the “Percent of Interest Held” in the FCC regulated business by the

¹⁵⁹ See 47 C.F.R. § 1.2112(a)(6).

¹⁶⁰ *Id.*

¹⁶¹ See 47 C.F.R. § 1.2112(b)(1)(i).

current party, either the applicant or the disclosable interest holder, with respect to which the FCC-regulated business is being entered.

c. View/Edit Ownership Disclosure Information

The *View/Edit Ownership Disclosure Information* screen summarizes Ownership information already entered in Form 175, either automatically from compatible ownership information on file with the Commission or directly by the applicant, and provides links enabling existing information to be revised and additional information to be added.

Existing ownership information is divided into three groups:

- Disclosable Interest Holders of this Applicant
- FCC Regulated Businesses of this Applicant
- Affiliates of this Applicant

To view the detailed information submitted regarding the applicant, a disclosable interest holder, FCC-regulated business, or an affiliate, click on the relevant party's name. To delete existing information or add a new entry in one of the categories, click on the relevant link. This screen also provides a link enabling applicants to add an FCC-regulated business directly to an existing disclosable interest holder, without needing to reenter the disclosable interest holder's information.

d. Bidding Credit Revenue Information

If the applicant has claimed eligibility for bidding credits based on revenues attributable to the applicant and related parties, the first *Ownership* screen will request relevant information regarding the applicant's revenues. The subsequent screen will request which of the two sources of financial information authorized by Section 1.2110 (n) the applicant used for the revenue information.¹⁶²

Applicants claiming eligibility for bidding credits based on revenues are required to provide revenue information separately and in the aggregate for the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests. In addition, if the applicant is consortium of small businesses, the information must be provided with respect to each member comprising the consortium.¹⁶³ The Commission's definition of an affiliate of the applicant encompasses both controlling interests of the applicant and affiliates of controlling interests of the applicant.¹⁶⁴ Form 175 screens request information regarding the applicant, disclosable interest holders, and affiliates of the applicant. Accordingly, information that Commission rules require be disclosed regarding controlling interests and affiliates of controlling interests that are not disclosable interest holders should be disclosed in screens requesting information regarding affiliates of the applicant.

¹⁶² 47 C.F.R. § 1.2110(n).

¹⁶³ See 47 C.F.R. § 1.2112(b)(1)(iii).

¹⁶⁴ See 47 C.F.R. § 1.2110(c)(5).

Following the first two screens, the subsequent screen will be similar to the initial *Ownership* screen described above, with one addition. In addition to being able to add disclosable interest holders and FCC-regulated business, applicants that claim eligibility for bidding credits based on revenues also will have an option to add information regarding affiliates, including their revenues, that are not disclosable interest holders.¹⁶⁵

Applicants that claim eligibility based on revenues attributable to the applicant and related parties will be requested to provide revenue information for each disclosable interest holder. With respect to disclosable interest holders that are affiliates or controlling interests of the applicant, applicants will fill out two screens similar to the two described above with respect to the applicant, *i.e.*, one screen requesting the relevant information and a second screen regarding the source of the revenue information.

However, not all disclosable interest holders that must be listed in Form 175 pursuant to Section 1.2112(a) are affiliates of the applicant, controlling interests of the applicant, or affiliates of the applicant's controlling interests.¹⁶⁶ Consequently, applicants claiming eligibility for bidding credits based on revenues may not need to provide revenue information for every disclosable interest holder. Accordingly, applicants may indicate that no revenue information is required with respect to the relevant disclosable interest holder on the first screen requesting revenue information for that disclosable interest holder. To do so, check the box indicating that the disclosable interest holder is **not** an affiliate or a controlling interest within the meaning of the Commission's rules and, therefore, no revenue information for the disclosable interest holder will be provided.

In addition, an applicant may have affiliates that are not disclosable interest holders. To disclose information regarding such affiliates and their revenues required pursuant to Commission rule,¹⁶⁷ applicants can click on the **ADD AFFILIATE** button on the initial *Ownership* screen. Applicants also can click on the **Add Affiliate to Applicant** link on the *View/Edit Ownership Disclosure Information* screen to disclose information regarding affiliates and their revenues.

Applicants providing information regarding an affiliate must provide the name of the affiliate and the affiliate's principal business. To simplify filling out Form 175, applicants can click on the **select business(es) already submitted** link when entering an affiliate that previously was entered as an FCC-regulated business for the applicant or a Disclosable Interest Holder. Applicants will fill out two screens similar to the two described above with respect to the affiliate, *i.e.*, one screen requesting the relevant information and a second screen regarding the source of the revenue information.

Finally, applicants claiming eligibility for bidding credits based on revenues attributable to the applicant and related parties will be asked to confirm that they have provided information with respect to all of the relevant parties, *i.e.*, the applicant; each of the applicant's officers and

¹⁶⁵ See 47 C.F.R. §1.2112(b)(1)(iii).

¹⁶⁶ Compare 47 C.F.R. 1.2110(c)(2) (definition of controlling interests) and (c)(5)(definition of affiliate) with 47 C.F.R. 1.2112(a) (describing disclosable interest holders).

¹⁶⁷ See 47 C.F.R. § 1.2112(b)(1)(iii).

directors; each of the applicant's other controlling interests; each of the applicant's affiliates; and for each affiliate of the applicant's controlling interests, including its officers and directors.¹⁶⁸

e. **Uploading Ownership Disclosure Data in ISAS**

Applicants submitting Ownership Disclosure Information have the option to upload ownership data in a text file, which will then be processed and populated into the system as the applicant's current ownership filing (provided there were no errors). This feature may benefit those applicants who have a large amount of ownership data that would otherwise have to be entered into the system manually. It also may benefit those applicants who previously provided ownership data to the FCC in a similar format for other purposes, such as in connection with filing FCC Form 602.

To use the upload feature, a text (.txt) file must be created that contains a row for each type of entity that is being uploaded. For example, a file might contain a row with data for a Disclosable Interest Holder (DIH), another row for a FCC-Regulated Business (FRB), another row for an affiliate, and so forth.

Instructions detailing what must be included for each entity are listed below, starting in *FCC-Regulated Business Record Data*. It is important to note that when a file is successfully uploaded, it will become the current ownership filing on file with the FCC.

o **Entity Types**

To upload ownership data, a record (row) must be created for each entity that will be included in the ownership file. A record may be created for the following entity types:

- Disclosable Interest Holder (DIH)
- FCC-Regulated Business (FRB)
- FCC-Regulated Business of Disclosable Interest Holder
- Affiliate.

o **File Format**

To use the upload feature in Ownership, a text file must be created using, for example, Windows Notepad. Data for each entity record must be entered in the order listed, so the system can process it properly. For each entity type, enter data for each column, separating each column of data with a "pipe" ("|") character. If data is to be omitted, the pipe character must be still be added as a data place holder. For example, if you are not entering an FRN for the entity, type "|" to represent the position of the missing data. Begin each record on a new line.

The following example represents the data requested to add a FCC-Regulated Business entity:

¹⁶⁸

Id.

| Position | Data Element | Data Type |
|----------|--------------------------|--------------|
| 1* | Record Type | char(1) |
| 2 | File Number | char(14) |
| 3 | Business Name | varchar(200) |
| 4 | Principal Business | varchar(60) |
| 5 | FRN | numeric(10) |
| 6 | Percent of Interest | numeric(5,2) |
| 7 | Form Number | char(3) |
| 8 | Filing Type | char(1) |
| 9 | Filing Status | char(1) |
| 10 | Unique System Identifier | numeric(9,0) |

| | |
|------------------|--|
| Position | Position indicates the order in which data must be entered. Use a pipe symbol () as a separator following each position, excluding the last position. |
| */** | <p>A single asterisk (*) indicates that this data is required for the current record (row).</p> <p>A double asterisk (**) indicates mutually-exclusive required data (e.g., enter either a first name/last name combination for an individual or an entity name for a business).</p> |
| Data | Data represents the type of data that is being provided. |
| Data Type | <p>Data type represents the kind of data the column may contain (e.g., only numeric data allowed in the FRN column) and the maximum length of the value or its size.</p> <p><i>Char(x)</i> indicates character data (<i>x</i> represents the maximum number of characters allowed).</p> <p><i>Numeric(x)</i> represents numeric data (<i>x</i> represents the precision).</p> <p><i>Numeric(x, y)</i> represents numeric data (<i>x</i> represents the precision (specifies the number of digits in a number), <i>y</i> represents the scale (specifies the number of digits to the right of the decimal point in a number)).</p> <p><i>Varchar(x)</i> indicates character data (<i>x</i> represents the maximum length of the value or its size).</p> <p><i>Money</i> represents a monetary value using two decimal places.</p> |

Example record for an FCC-Regulated Business:

F|World Wide Wireless, Inc.|PCS Wireless|0007522890|44|||

- **Record Types for Upload Files**

FCC-Regulated Business (FRB) Record Data

| Position | Data Element | Data Type |
|-----------------|--------------------------|------------------|
| 1* | Record Type | char(1) |
| 2 | File Number | char(14) |
| 3* | Business Name | varchar(200) |
| 4* | Principal Business | varchar(60) |
| 5 | FRN | numeric(10) |
| 6* | Percent of Interest | numeric(5,2) |
| 7 | Form Number | char(3) |
| 8 | Filing Type | char(1) |
| 9 | Filing Status | char(1) |
| 10 | Unique System Identifier | numeric(9,0) |

Notes:

| Position/Data Element | Note |
|------------------------------|---|
| 1 Record Type | Use “F” as the value for a FRB record. Enter a pipe “ ” to indicate the end of the data element. |
| 2 File Number | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 7 Form Number | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 8 Filing Type | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 9 Filing Status | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 10 Unique System Identifier | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |

FCC-Regulated Business (FRB) of Disclosable Interest Holder (DIH) Record Data

| Position | Data Element | Data Type |
|-----------------|--------------------------|------------------|
| 1* | Record Type | char(1) |
| 2 | File Number | char(14) |
| 3* | Business Name | varchar(200) |
| 4* | Principle Business | varchar(60) |
| 5 | FRN | numeric(10) |
| 6 | DIH FRN | numeric(10) |
| 7* | Percent of Interest | numeric(5,2) |
| 8 | Form Number | char(3) |
| 9 | Filing Type | char(1) |
| 10 | Filing Status | char(1) |
| 11 | Unique System Identifier | numeric(9,0) |

Notes:

| Position/Data Element | Note |
|------------------------------|--|
| 1 Record Type | Use “H” as the value for a DIH FRB record. Enter a pipe “ ” to indicate the end of the data element. |
| 2 File Number | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 8 Form Number | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 9 Filing Type | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 10 Filing Status | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 11 Unique System Identifier | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |

Disclosable Interest Holder (DIH) Record Data

| Position | Data Element | Data Type |
|-----------------|--|------------------|
| 1* | Record Type | char(1) |
| 2 | File Number | char(14) |
| 3** | Entity Name | varchar(200) |
| 4* | Entity Type | char(1) |
| 5** | First Name | varchar(20) |
| 6 | MI | char(1) |
| 7** | Last Name | varchar(20) |
| 8 | Suffix | char(3) |
| 9 | FRN | numeric(10) |
| 10 | Address | varchar(60) |
| 11 | Address2 | varchar(60) |
| 12 | City | varchar(20) |
| 13 | State | char(2) |
| 14 | Zip Code | char(9) |
| 15 | Country | char(2) |
| 16 | International Address ind | char(1) |
| 17 | Interest Direct | char(1) |
| 18 | Interest Indirect | char(1) |
| 19 | Interest Officer | char(1) |
| 20 | Interest Director | char(1) |
| 21 | Interest Key Management | char(1) |
| 22 | Interest Management Contract | char(1) |
| 23 | Interest Other | char(1) |
| 24 | Interest Other Description | char(255) |
| 25 | Owner Common Stock | char(1) |
| 26 | Owner Common Stock Vote Indicator | char(1) |
| 27 | Owner General Partnership | char(1) |
| 28 | Owner General Partnership Vote Indicator | char(1) |
| 29 | Owner Limited Partnership | char(1) |

| Position | Data Element | Data Type |
|----------|--|--------------|
| 30 | Owner Limited Partnership Vote Indicator | char(1) |
| 31 | Owner Member | char(1) |
| 32 | Owner Option | char(1) |
| 33 | Owner Proprietor | char(1) |
| 34 | Owner Preferred Stock | char(1) |
| 35 | Owner Preferred Stock Vote Indicator | char(1) |
| 36 | Owner Preferred Stock Convert Indicator | char(1) |
| 37 | Owner Warrant | char(1) |
| 38 | Owner Other Type of Interest | char(1) |
| 39 | Owner Other Type of Interest Description | char(255) |
| 40 | Percent of Interest | numeric(5,2) |
| 41 | Country of Citizenship | char(2) |
| 42 | Jurisdiction of Formation | char(2) |
| 43 | State of Jurisdiction | char(2) |
| 44 | Non Affiliate Option | char(1) |
| 45 | Year1 in Existence | char(1) |
| 46 | Year1 End Date | char(10) |
| 47 | Year1 Revenue | numeric(18) |
| 48 | Year2 in Existence | char(1) |
| 49 | Year2 End Date | char(10) |
| 50 | Year2 Revenue | numeric(18) |
| 51 | Year3 in Existence | char(1) |
| 52 | Year3 End Date | char(10) |
| 53 | Year3 Revenue | numeric(18) |
| 54 | Total Assets | money |
| 55 | Financial Statement Type | char(1) |
| 56 | Form Number | char(3) |
| 57 | Filing Type | char(1) |
| 58 | Filing Status | char(1) |
| 59 | Unique System Identifier | numeric(9,0) |

Notes:

| Position/Data Element | Note |
|--|---|
| 1 Record Type | Use "D" as the value for a DIH record. Enter a pipe " " to indicate the end of the data element. |
| 2 File Number | Not required. Enter a pipe " " to indicate the end of the data element, even if no data is entered. |
| 3 Entity Name/5 First Name/7 Last Name | If the DIH is an entity, enter the Entity Name. If the DIH is an individual, enter the First Name and Last Name. Enter a pipe " " to indicate the end of the data element. |
| 4 Entity Type | If the DIH is an entity, use "E" as the value. If the DIH is an individual, use "I" as the value. Enter a pipe " " to indicate the end of the data element. |
| 5 through 55 | Not required. Enter a pipe " " to indicate the end of each data element (fifty pipes). |
| 56 Form Number | Not required. Enter a pipe " " to indicate the end of the data element, even if no data is entered. |

| Position/Data Element | Note |
|-----------------------------|---|
| 57 Filing Type | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 58 Filing Status | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 59 Unique System Identifier | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |

Affiliate Record Data

| Position | Data Element | Data Type |
|----------|--------------------------|--------------|
| 1* | Record Type | char(1) |
| 2 | File Number | char(10) |
| 3* | Individual Entity Type | char(1) |
| 4** | First Name | varchar(20) |
| 5 | MI | char(1) |
| 6** | Last Name | varchar(20) |
| 7 | Suffix | char(3) |
| 8** | Entity Name | varchar(200) |
| 9 | Principal Business | varchar(60) |
| 10 | FRN | numeric(10) |
| 11 | Year1 in Existence | char(1) |
| 12 | Year1 End Date | char(10) |
| 13 | Year1 Revenue | numeric(18) |
| 14 | Year2 in Existence | char(1) |
| 15 | Year2 End Date | char(10) |
| 16 | Year2 Revenue | numeric(18) |
| 17 | Year3 in Existence | char(1) |
| 18 | Year3 End Date | char(10) |
| 19 | Year3 Revenue | numeric(18) |
| 20 | Total Assets | money |
| 21 | Financial Statement Type | char(1) |
| 22 | Form Number | char(3) |
| 23 | Filing Type | char(1) |
| 24 | Filing Status | char(1) |
| 25 | Unique System Identifier | numeric(9,0) |

Notes:

| Position/Data Element | Note |
|--|---|
| 1 Record Type | Use “A” as the value for an Affiliate record. Enter a pipe “ ” to indicate the end of the data element. |
| 2 File Number | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 3 Individual Entity Type | If the Affiliate is an entity, use “E” as the value. If the Affiliate is an individual, use “I” as the value. Enter a pipe “ ” to indicate the end of the data element. |
| 4 First Name/6 Last Name/8 Entity Name | If Affiliate is an individual, enter the First Name and Last Name. If Affiliate is an entity, enter the Entity Name. |

| Position/Data Element | Note |
|-----------------------------|---|
| | Enter a pipe “ ” to indicate the end of the data element. |
| 5 through 21 | Not required. Enter a pipe “ ” to indicate the end of each data element (sixteen pipes). |
| 22 Form Number | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 23 Filing Type | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 24 Filing Status | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |
| 25 Unique System Identifier | Not required. Enter a pipe “ ” to indicate the end of the data element, even if no data is entered. |

o **Procedure to Upload Ownership Disclosure Information**

After creating the ownership upload file and saving it as a .txt file, it may be uploaded from the *Upload Ownership Disclosure Information* screen. Ownership data must be uploaded in one file. A successful upload will become the current ownership data on file with the FCC. You may not make changes to your Ownership Disclosure data nor submit your auction application until the processing of your upload file has completed. You may navigate to other sections of your online auction application during the processing. To begin the upload process:

1. Enter the exact path name of the file to be uploaded or click the **BROWSE** button to locate the file on your computer. Click **BROWSE** opens a window from which you can locate and select the file. After selecting the file, click the **OPEN** button.
2. Type an e-mail address to which a confirmation notice will be sent, then re-type the address in the confirmation box.
3. Click the **UPLOAD FILE** button.

The system will process the file and populate the system with the data, provided there were no processing errors. If there is an error, an error message will be displayed on the screen. If the file is successfully uploaded, the ownership data will be viewable on the *View/Edit Ownership Disclosure Information* screen. It may be viewed and/or edited just as if it had been entered manually.

5. Summary

The *Summary* screens, the next series of screens that appear if an applicant continues from the *Ownership* screens, are the fifth series of screens in Form 175. The *Summary* screens summarize information applicants have provided in previous screens, offering an overview of an applicant’s Form 175 to help you locate specific information. The *Summary* screens will appear prior to the *Certify and Submit* screens, in order to permit the applicant to review all the information entered in previous screens and an opportunity to check for errors in the information submitted.

The first *Summary* screen, the *Summary Overview* screen, lists the first four series of screens in the application and provides a **VIEW/EDIT** button to access each one. Here is what happens if you click **VIEW/EDIT** for each series:

- Clicking **VIEW/EDIT** for Applicant Information produces a *Detail for Applicant Information* screen showing what you entered for each data entry field. To change any data item, click the **Edit** icon for the relevant data field.
- Clicking **VIEW/EDIT** for License Selection takes you to the *View/Edit License Selection* screen discussed above in the License Selection section.
- Clicking **VIEW/EDIT** for Agreements takes you to the *Agreements* screen discussed above in the Agreements section.
- Clicking **VIEW/EDIT** for Ownership takes you to the *View/Edit Ownership Disclosure Information* screen discussed above in the Ownership section.

Clicking on the **CHECK ERRORS** button initiates an automated check of the application. If the automated check encounters any errors that must be corrected before submitting the application, the error(s) will be listed in an Error box at the top of the screen. To correct one of these errors, click its corresponding **EDIT** button. In addition, if the automated check encounters any apparent errors that might render the application incomplete if the application is submitted with current information, the apparent error will be listed in a Warning box. To revise the information related to the apparent error, click its corresponding **EDIT** button.

Applicants are solely responsible for providing complete and accurate information in Form 175. The automated check is provided to assist applicants in completing Form 175. However, the automated check cannot be relied upon to determine whether the information provided in the Form 175 is complete or accurate; the automated check may not catch all errors or apparent errors and applicants cannot rely on the automated check to determine the completeness or the accuracy of submitted information.

If the automated check does not encounter any errors, a box will appear displaying the message “**No Errors found - You may continue to Certify and Submit.**” Applicants may then click the **CONTINUE TO CERTIFY** button.

6. Attaching Additional Information

If an applicant needs to provide additional information not requested directly in the screens comprising the Form 175, additional information can be provided in an attachment.

The screen for adding an attachment to Form 175 can be accessed by clicking on the **Attachments** link in the upper right of any screen. The *Add Attachment* screen requests information regarding the type of attachment to be added, the name of the file to be attached, and a brief description of the attachment. If the attachment is a request for a waiver of any of the Commission’s rules or procedures, the applicant should identify the “Type” of attachment as a “Waiver” to facilitate prompt processing. Once the requested information is provided, applicants can add the attachment to the application by clicking on the **ADD ATTACHMENT** button.

A list of any attachments already uploaded along with the applicant’s Form 175 appears at the bottom of the screen.

When uploading attachments, applicants may use a variety of file formats-- including Word 2000 or earlier, WordPerfect 6.x or earlier, Adobe PDF, and ASCII text--and must verify that the files contain all exhibit information. 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, and word processing files that are uploaded may not contain graphic images. Files must not be password-protected.

7. Certify and Submit

The *Certify and Submit* screens are the sixth and final series of screens in Form 175. In the *Certify and Submit* screens, applicants will provide certifications required of all participants in the Commission's competitive bidding.¹⁶⁹

The first *Certify and Submit* screen requires applicants to indicate whether they, their affiliates, their controlling interests, and any affiliates of their controlling interests have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency.¹⁷⁰ Applicants associated with a relevant entity that has been in default or delinquent may participate in an auction, if otherwise qualified. However, such applicants must submit an upfront payment equal to 50 percent more than otherwise required.¹⁷¹

The second *Certify and Submit* screen lists the certifications required of all applicants in the Commission's competitive bidding and requests that the applicant's certifying official be identified and sign the application.

Once the two *Certify and Submit* screens have been filled out, the application may be submitted by clicking on the **SUBMIT** button.

After the application has been submitted, a confirmation screen will be displayed that states the submission time and date, along with a unique file number. It is recommended that you print a copy of the confirmation page for your records. You may then view and print a copy of your submitted application by clicking on Print Preview.

8. Updating or Withdrawing Previously Submitted Information in the Form 175

a. Update Existing Applications

Once you have logged into the Auctions Application Manager, the *Create or Review Auction Applications* page displays any application you have created or submitted within a filing window. **Note:** This page shows the application status, the date and time the application was last updated; and the date and time the application was last submitted. You may use this page as a reference to confirm the date and time of your most recent submission of the application.

To review or continue working on an existing application, click its auction number. This produces the application's Summary page and places you in a view/edit mode. Applicants must go to the Certify and Submit screens and click the **SUBMIT** button to submit any changes made to their Form 175. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with your unique file number. It is recommended that you print a copy of the confirmation page for your records. You may then view and print a copy of your submitted application by clicking on Print Preview.

¹⁶⁹ See generally, 47 C.F.R. § 1.2105(a)(2) (iv)-(vii) and (ix)-(xi).

¹⁷⁰ See 47 C.F.R. § 1.2105(a)(2)(xi).

¹⁷¹ See 47 C.F.R. § 1.2106(a).

After the short-form filing deadline (6:00 p.m. ET June 9, 2005), applicants may make only minor changes to their applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).¹⁷²

b. Withdraw Application

If you wish to withdraw a submitted application before the short-form filing deadline, click on the **Withdraw Application** icon on the *Auction Application Manager Create or Review Auction Applications* page and confirm that you want to withdraw your application. If you subsequently decide to file an application, you will have to re-enter all previously-submitted data.

9. Upfront Payment Calculator and Form 159

You may access the **Upfront Payment Calculator and Form 159** from the *Create or Review Auction Applications* page and from the *Auction Application Submit Confirmation* page. When you click the **Upfront Payment Calculator and Form 159** icon or link, a page will be displayed where you can determine the appropriate upfront payment amount to submit with the Form 159. From the *Calculate Upfront Payment* page, you may click the **Form 159** button to obtain the Form 159.

10. Refund of Upfront Payment

On *My Auctions* Page, click on the **See Wire Transfer for Refund Purposes** link to provide your wire transfer instructions for purposes of refunds of upfront payments. The Commission will use this information to refund excess funds on deposit upon receipt of a written refund request.

C. Application Review

Once the FCC has completed the 175 Application 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 **Auction Applications** link in the Public Access area on the FCC Integrated Spectrum Auction System page to start your search.

D. Technical Support

For technical assistance with using FCC software, contact the FCC Technical Support Hotline at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY). The FCC Technical Support Hotline is available Monday through Friday from 8 a.m. to 6 p.m. ET. **All calls to the FCC Technical Support Hotline are recorded.**

FCC Technical Support can also be contacted electronically by filling out a help request form at <https://esupport.fcc.gov/request.htm>.

¹⁷² See 47 C.F.R. § 1.2105.

IX. ATTACHMENT D

AUCTION-SPECIFIC INSTRUCTIONS FOR FCC REMITTANCE ADVICE (FCC FORM 159-February 2003 Edition)

A. Upfront Payments

The following information supplements the standard instructions for FCC Form 159 (Revised 2/03), and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction No. 61. Applicants need to complete FCC Form 159 carefully, since:

- **Mistakes may affect bidding eligibility; and**
- **Lack of consistency between information set forth in FCC Form 159 (Revised 2/03), 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 2/03). |
| 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). |
| 24A | Payment Type Code - Enter "A61U" |

- 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 "61" (indicating Auction No. 61).

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 21 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.

X. ATTACHMENT E

SUMMARY LISTING OF COMMISSION AND BUREAU DOCUMENTS ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULE

A. Commission Decisions:

Implementation of Section 309(j) of the Communications Act- Competitive Bidding, PP Docket No. 93-253, FCC 94-61, *Second Report and Order*, 9 FCC Rcd 2348, 2386-2388 ¶¶ 221-226 (1994).

Implementation of Section 309(j) of the Communications Act - Competitive Bidding, *Fifth Report and Order*, PP Docket No. 93-253, 9 FCC Rcd 5532, 5570-5571 ¶¶ 91-92 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Fourth Memorandum Opinion and Order*, PP Docket No. 93-253, 9 FCC Rcd 6858, 6866-6869 ¶¶ 47-60 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Second Memorandum Opinion and Order*, PP Docket No. 93-253, 9 FCC Rcd 7245, 7253-7255 ¶¶ 48-55 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Memorandum Opinion and Order*, PP Docket No. 93-253, 9 FCC Rcd 7684, 7687-7689 ¶¶ 8-12 (1994).

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 15374 (1996).

In re Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd 17970 (1997); Application of Mercury PCS II, L.P. for Facilities in the Broadband PCS D, E and F Blocks, *Memorandum Opinion and Order*, 13 FCC Rcd. 23755 (1998).

Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 463-469 ¶¶ 155-166 (1997).

In re Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, 13 FCC Rcd 8286 (1998); 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); Notice of Apparent Liability for Forfeiture of Western PCS BTA I Corporation, *Memorandum Opinion and Order*, 14 FCC Rcd 21571, 21577-78 ¶ 20 (1999).

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 (WTB 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 (WTB1997).

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 18093 (WTB 1997).

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 19627 (WTB 1997).

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 (WTB 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 10134 (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).

C. Enforcement Bureau Decisions:

In re Application of Star Wireless, LLC for C Block Facilities in the 710-716 and 740-746 MHz Bands, *Notice of Apparent Liability for Forfeiture*, DA 03-2722 (released August 27, 2003) (recon. pending).

In re Application of Northeast Communications of Wisconsin, Inc. for C Block Facilities in the 710-716 and 740-746 MHz Bands, *Notice of Apparent Liability for Forfeiture*, DA 03-2723 (released August 27, 2003) (recon. pending).

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

U.S. v. Omnipoint Corp., Proposed Final Judgments 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 duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (800) 378-3160 (telephone) or <http://www.bcpweb.com>.