



PUBLIC NOTICE

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AUCTION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE LICENSES SCHEDULED FOR DECEMBER 7, 2005

Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 63

Report No. AUC-05-63-C (Auction No. 63)

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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 Multichannel Video Distribution and Data Service (“MVDDS”) licenses scheduled for December 7, 2005 (Auction No. 63).¹ On June 9, 2005, in accordance with Section 309(j)(3) of the Communications Act of 1934, as amended,² 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. 63.³ The Bureau received no comments in response to the *Auction No. 63 Comment Public Notice*.

1. Background of Proceeding

On December 8, 2000, the Commission released the *First Report and Order and Further Notice of Proposed Rule Making* in ET Docket No. 98-206, which authorized MVDDS as a new service under the existing primary status fixed service allocation in the 12.2-12.7 GHz band.⁴ On May 23, 2002, the Commission released the *Second Report and Order* in this proceeding, which adopted technical and service rules, including competitive bidding rules, for MVDDS.⁵ On April 15, 2003, the Commission released the *Second Further Notice of Proposed Rule Making*, which sought further comment on the appropriate service area definition for MVDDS and on whether the build out requirement for this service should be modified.⁶

¹ See Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band, ET Docket No. 98-206, *Memorandum Opinion and Order and Second Report and Order*, 17 FCC Rcd 9614 (2002), *aff'd* Northpoint Technology, Ltd. v. FCC, Case No. 02-1194 (D.C. Cir. July 15, 2005) (“*Second Report and Order*”). The following eligibility restriction applies to MVDDS licenses: no cable operator, nor any entity owning an attributable interest in a cable operator, may hold an attributable interest in an MVDDS license if such cable operator's service area significantly overlaps the MVDDS license area. See 47 C.F.R. § 101.1412.

² 47 U.S.C. § 309(j)(3)(E)(i).

³ See “Auction of Multichannel Video Distribution and Data Service Licenses Scheduled for December 7, 2005; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Procedures for Auction No. 63,” *Public Notice*, DA 05-1555 (rel. June 9, 2005) (“*Auction No. 63 Comment Public Notice*”) (70 Fed. Reg. 36169) (June 22, 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).

⁴ Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band, ET Docket No. 98-206, *First Report and Order and Further Notice of Proposed Rule Making*, 16 FCC Rcd 4096 (2000).

⁵ *Second Report and Order*, 17 FCC Rcd 9614 (2002).

⁶ Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band, ET Docket No. 98-206, *Second Further Notice of Proposed Rule Making*, 18 FCC Rcd 7589 (2003).

On July 7, 2003, the Commission released the *Third Report and Order*, in which it decided to license MVDDS using services areas based on the Designated Market Areas (“DMAs”) delineated by Nielsen Media Research, Inc. (“Nielsen Media”), in its publication entitled “U.S. Television Household Estimates” dated September 2002, rather than Component Economic Areas (“CEAs”).⁷ In the *Third Report and Order* the Commission also adopted a five-year build out requirement.⁸

MVDDS licensees may provide any digital fixed one-way non-broadcast service including direct-to-home/office wireless service.⁹ Mobile and aeronautical services are not authorized. Two-way services may be provided by using other spectrum or media for the return or upstream path.¹⁰ MVDDS providers will share the 12.2-12.7 GHz band on a co-primary basis with non-geostationary satellite orbit (“NGSO”) fixed-satellite services (“FSS”) and on a non-harmful interference basis with incumbent Direct Broadcast Satellite (“DBS”) providers. The technical criteria for sharing established in the *Second Report and Order* are designed to protect NGSO FSS and DBS operations from harmful interference.

2. Licenses to be Auctioned

Auction No. 63 will offer 22 MVDDS licenses in the 12 GHz band. These licenses remained unsold in Auction No. 53, which closed on January 27, 2004.¹¹ Each license will authorize the use of one block of unpaired spectrum in the 12.2-12.7 GHz band. For Auction No. 63, licenses are not available in every market. A complete list of the licenses available in Auction No. 63 and their descriptions is included in Attachment A of this Public Notice.

The following table contains the characteristics of the licenses that will be offered in Auction No. 63:

Frequency Band (GHz)	Total Bandwidth	Pairing	Geographic Area Type	No. of Licenses
12.2 – 12.7	500 MHz	Unpaired	MVDDS Service Areas ¹²	22

⁷ Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band, ET Docket No. 98-206, *Third Report and Order*, 18 FCC Rcd 13468, 13471-74 ¶¶ 8-13 (2003) (“*Third Report and Order*”). Designated Market Area (DMA®) is a registered trademark of Nielsen Media. An MVDDS license does not confer any right to use the DMA trademark or any associated maps, ranks, regions, data, or analyses owned by Nielsen Media, and that right must be sought from Nielsen Media.

⁸ *Id.* at 13475 ¶¶15-16.

⁹ 47 C.F.R. §101.1407. Broadcast services are intended for reception of the general public and not on a subscribership basis.

¹⁰ *Id.*

¹¹ See Multichannel Video Distribution and Data Service Spectrum Auction Closes, Winning Bidders Announced, *Public Notice*, 19 FCC Rcd 1834 (2004).

¹² As noted above, MVDDS service areas, the contours of which have remained unchanged since their adoption in 2003, are based on the DMAs delineated by Nielsen Media in its publication entitled “U.S. Television Household Estimates” dated September 2002. See *supra* note 7. See also 47 C.F.R. § 101.1401.

B. Rules and Disclaimers

1. Relevant Authority

Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including recent amendments and clarifications;¹³ rules relating to MVDDS contained in Title 47, Part 101, 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 Commission's decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees.¹⁴

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 auctions-related 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 between 8:00 a.m. and 4:30 p.m. Eastern Time (ET) Monday through Thursday or 8:00 a.m. to 11:30 a.m. ET Fridays 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 or at <http://www.bcpiweb.com>.¹⁵

2. Prohibition of Collusion

To ensure the competitiveness of the auction process, the Commission's Part 1 rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about

¹³ See, e.g., Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *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) ("*Fifth Report and Order*"); *Seventh Report and Order*, 16 FCC Rcd 17546 (2001) ("*Seventh Report and Order*"); *Eighth Report and Order*, 17 FCC Rcd 2962 (2002); *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).

¹⁴ 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, 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).

¹⁵ When ordering documents from BCPI, please provide the appropriate FCC document number (for example, DA 05-1555 for the Auction No. 63 Comment Public Notice, and DA05-2188 for this public notice).

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).¹⁶ 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, bids or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction.¹⁷ **This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.**¹⁸ For purposes of this prohibition, Section 1.2105(c)(7)(i) defines “applicant” as including all controlling interests in the entity submitting a short-form 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.¹⁹

Bidders competing for licenses for any of the same geographic license areas must not communicate indirectly about bids or bidding strategy.²⁰ Accordingly, such bidders 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 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.²¹ 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.²²

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.²³ 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

¹⁶ 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.

¹⁷ 47 C.F.R. § 1.2105(c)(1).

¹⁸ *See, e.g.*, *Star Wireless, LLC, Forfeiture Order*, 19 FCC Rcd 18626, 18628 ¶4, n. 19 (EB 2004), *application for review pending* (collusion rule applies to “applicants’ regardless of whether they are qualified to bid); Letter to Robert Pettit, Esquire, from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 16 FCC Rcd 10080 (WTB 2000) (declining to except an applicant’s controlling interest from coverage by the anti-collusion rule, even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder).

¹⁹ 47 C.F.R. § 1.2105(c)(7)(i).

²⁰ *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17549-50 ¶ 6.

²¹ *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).

²² *See id.*, 13 FCC Rcd at 11978 ¶ 13.

²³ 47 C.F.R. § 1.2105(c)(2) & (3).

their FCC Form 175.²⁴ 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.²⁵ 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.²⁶ 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 1.65.²⁷

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.²⁸ 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.²⁹ In 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.³⁰

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.³¹

3. Interference Protection

Among other licensing and technical rules, MVDDS licensees must comply with the interference protection

²⁴ 47 C.F.R. § 1.2105(c)(7)(i).

²⁵ See "Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, 11 FCC Rcd 9645 (1995).

²⁶ 47 C.F.R. § 1.65.

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

²⁸ 47 C.F.R. § 1.2107(d).

²⁹ See 47 C.F.R. § 1.2109(d).

³⁰ *Id.*

³¹ <http://wireless.fcc.gov/auctions/anticollusion>

and coordination requirements set forth in Sections 101.103, 101.105, 101.109, 101.129, 101.1421, and 101.1440 of the Commission's rules.³² Generally, Sections 101.103, 101.105, 101.109, 101.129, 101.1421, and 101.1440 establish standards for protection of co-primary NGSO FSS earth stations, incumbent and adjacent area licensees and co-primary DBS earth stations. MVDDS shall be licensed on a non-harmful interference co-primary basis to existing DBS operations and on a co-primary basis with NGSO FSS stations in this band. MVDDS licensees must also protect and/or develop sharing agreements with neighboring licensees.

a. Incumbent Licensees

Terrestrial private operational fixed point-to-point stations in the 12.2-12.7 GHz band which were licensed prior to MVDDS are incumbent point-to-point stations. However, only those stations licensed as public safety must be protected from harmful interference caused by later MVDDS entrants in the 12.2-12.7 GHz band. MVDDS operators have the responsibility of resolving any harmful interference problems that their operations may cause to these public safety incumbent point-to-point operations in the 12.2-12.7 GHz band.

b. Canadian and Mexican Border Regions

MVDDS systems in the United States within 56 km (35 miles) of the Canadian and Mexican border will be granted conditional licenses, until final international agreements are approved. MVDDS systems may not cause harmful interference to stations in Canada or Mexico.³³ No stations are allowed within 5 miles of the borders.

c. Quiet Zone

MVDDS stations must protect the radio quiet zones set forth in the Commission's rules.³⁴ Stations are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating within the areas described in the Commission's rules.³⁵

4. 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.

Potential applicants are reminded that there are a number of incumbent terrestrial private operational fixed point-to-point licensees in the 12.2-12.7 GHz band which were licensed prior to MVDDS and are not entitled to protection from harmful interference caused by later MVDDS entrants in the 12.2-12.7 GHz band, except for public safety stations, which must be protected. MVDDS has the responsibility of resolving any harmful interference problems that their operations may cause to these public safety

³² See 47 C.F.R. § 101.103 (Frequency coordination procedures), 47 C.F.R. § 101.105 (Interference protection criteria), 47 C.F.R. § 101.109 (Treatment of incumbent licensees), 47 C.F.R. § 101.129 (Transmitter locations), 47 C.F.R. § 101.1421 (Coordination of adjacent area MVDDS stations and incumbent public safety POFSS stations), and 47 C.F.R. § 101.1440 (MVDDS protection of DBS).

³³ See 47 C.F.R. § 101.147(p), § 101.1423, and §§ 1.928(f)(1) and (2).

³⁴ See 47 C.F.R. § 101.105 and § 1.924.

³⁵ See *id.*

incumbent point-to-point operations in the 12.2-12.7 GHz band. To aid potential bidders, a list of public safety incumbents in this band is attached as Appendix I to the *Second Report and Order*, ET Docket No. 98-206, released May 23, 2002.³⁶ These limitations may restrict the ability of such MVDDS 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 MVDDS 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. 63.

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 may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 63. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 63. 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. 63. 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. 63 through the Bureau's licensing databases on the World Wide Web at <http://wireless.fcc.gov/uls>.³⁷ 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 or by going to the ULS support site at <http://esupport.fcc.gov/licensing.htm>. Applicants should direct questions regarding the ULS 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.

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.

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.6.

³⁶ See *supra* note 1.

³⁷ Public Safety incumbents in the 12.2 - 12.7 GHz band can be identified by searching on the radio service code "MW" and limiting the search by upper and lower frequency band.

5. 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. 63 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. 63 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

6. National Environmental Policy Act Requirements

Licensees must comply with the Commission’s rules regarding the National Environmental Policy Act (“NEPA”).³⁸ 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.³⁹ 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 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.

³⁸ 47 C.F.R. Ch. 1, Subpart I.

³⁹ 47 C.F.R. §§ 1.1305-1.1319.

C. Auction Specifics

1. Auction Date

Bidding in Auction No. 63 will begin on Wednesday, December 7, 2005, as announced in the *Auction No. 63 Comment Public Notice*.⁴⁰ 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. 63 – MVDDS.

3. Bidding Methodology

The bidding methodology for Auction No. 63 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 electronically via the Internet or by telephone.⁴¹

4. Pre-Auction Dates and Deadlines

Auction Seminar	September 28, 2005
Short-Form Application (FCC Form 175) Filing Window Opens	September 28, 2005; 12:00 p.m. ET
Short-Form Application (FCC Form 175) Filing Window Deadline	October 7, 2005; 6:00 p.m. ET
Upfront Payments (via wire transfer)	November 7, 2005; 6:00 p.m. ET
Mock Auction	December 5, 2005
Auction Begins	December 7, 2005

5. Requirements for Participation

Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically prior to 6:00 p.m. Eastern Time (ET), October 7, 2005, following the electronic filing procedures set forth in Attachment C to this public notice.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, November 7, 2005.
- Comply with all provisions outlined in this public notice.

⁴⁰ *Auction No. 63 Comment Public Notice*, DA 05-1555.

⁴¹ For additional information regarding the FCC's Integrated Spectrum Auction System, including sample screen shots, visit the "About ISAS" web page at http://wireless.fcc.gov/auctions/about_isas.

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

Broadband Division
(202) 418-2487

TECHNICAL SUPPORT

Electronic Filing
FCC Auction System

FCC Auctions Technical Support
(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)

AUCTION BIDDER LINE

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

Chelsea Fallon (202) 418-7991

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.⁴²

The short-form application is the first part of the Commission's two-phased auction application process which contemplates that potential licensees file streamlined, short-form applications in which applicants certify under penalty of perjury as to their qualifications.⁴³ Eligibility to participate in bidding is based on the applicants' short-form applications and certifications. In the second phase, winning bidders file a more comprehensive long-form application.⁴⁴

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.⁴⁵ Applicants should 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.

Applicants bear full responsibility for submission of timely and complete FCC Form 175 applications. Applicants to participate in Auction No. 63 must file FCC Form 175 electronically prior to 6:00 p.m. ET on October 7, 2005, following the procedures set forth in Attachment C to this public notice. Applicants should read the instructions set forth in Attachment C to this public notice carefully and should consult the Commission's 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.

For Auction No. 63, if an applicant claims eligibility for a bidding credit, the information provided in its FCC Form 175 will be used in determining whether the applicant is eligible for the claimed bidding credit. Applicants should further note that they must fulfill the certification requirements of Section 101.1412(g)(2) of the Commission's rules relating to complying with the eligibility restrictions for cable operators.⁴⁶ Specifically, applicants must certify as an attachment to their short-form application that they, and all parties to the application, will come into compliance with Section 101.1412(a) of the Commission's rules.

⁴² See 47 C.F.R. § 1.2105.

⁴³ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, 9 FCC Rcd 2348, 2376 ¶ 163 (1994) (*Competitive Bidding Second Report and Order*).

⁴⁴ See 47 C.F.R. § 1.2105.

⁴⁵ See *id.*

⁴⁶ 47 C.F.R. § 101.1412(g)(2).

A. Preferences for Small Businesses and Others

1. Size Standards for Bidding Credits

In the *Second Report and Order*, the Commission determined that three levels of bidding credits are appropriate for MVDDS.⁴⁷ 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.⁴⁸

For Auction No. 63 bidding credits will be available to very small businesses, small businesses, and entrepreneurs, 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.⁴⁹
- 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.⁵⁰
- A bidder with attributed average annual gross revenues that exceed 15 million and do not exceed \$40 million for the preceding three years ("entrepreneur") will receive a 15 percent discount on its winning bids.⁵¹

Bidding credits are not cumulative; a qualifying applicant receives the 35 percent, 25 percent, or 15 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 very small business, small business, or an entrepreneur (or consortia of a very small business, small business or entrepreneur) for this auction.⁵² 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. 63.

⁴⁷ *Second Report and Order*, 17 FCC Rcd at 9711 ¶ 252.

⁴⁸ 47 C.F.R. §§ 1.2110(f), 101.1429.

⁴⁹ 47 C.F.R. § 1.2110(f)(2)(i).

⁵⁰ 47 C.F.R. § 1.2110(f)(2)(ii).

⁵¹ 47 C.F.R. § 1.2110(f)(2)(iii).

⁵² 47 C.F.R. § 1.2105.

B. License Selection

In Auction No. 63, 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.⁵³ 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.⁵⁴ 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.⁵⁵ 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.⁵⁶

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.⁵⁷ 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.⁵⁸ To simplify filling out Form 175, an applicant’s most current ownership information on file with the Commission, if in an electronic

⁵³ 47 C.F.R. § 1.2105(b)(2).

⁵⁴ 47 C.F.R. § 1.2105(a)(2)(ix).

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

⁵⁶ See above Section I.B.2.

⁵⁷ 47 C.F.R. § 1.2105(c)(4)(i), (ii).

⁵⁸ 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.

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.

To simplify filling out FCC Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with FCC Form 175, such as information submitted in an on-line FCC Form 602 in connection with wireless services, will automatically be entered into FCC Form 175.

E. Bidding Credit Revenue Disclosures

Entities applying to bid as very small businesses, small businesses, or entrepreneurs (or consortia of very small businesses, small businesses, or entrepreneurs) 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 very small businesses, small businesses, or entrepreneurs, 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.⁵⁹ 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.⁶⁰ The Commission also clarified that in calculating an 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.⁶¹

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.⁶² 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;

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

⁶⁰ *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).

⁶¹ *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.

⁶² 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).

- 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 very small business, small business, and entrepreneur eligibility. In determining which entities qualify as very small businesses, small businesses, or entrepreneurs, 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 very small businesses, small businesses, or entrepreneurs 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 very small business, small business, or entrepreneur in Sections 1.2110(f), 101.1429. 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 very small business, small business, or entrepreneur, 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 state under penalty of perjury on its FCC Form 175 application 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.⁶³ In addition, each applicant must certify under penalty of perjury on its FCC Form 175 application that the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110, are not in default on any payment for Commission licenses (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency.⁶⁴ 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. 63, provided that they are otherwise qualified. However, as discussed *infra* in Section III.D.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.⁶⁵

⁶³ 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.

⁶⁴ 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*”).

⁶⁵ 47 C.F.R. § 1.2106(a).

“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. 63.⁶⁶

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.⁶⁷ 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.⁶⁸

G. Eligibility Restrictions for Cable Operators

Applicants should note that Section 101.1412 of the Commission’s rules provides certain eligibility restrictions for cable operators.⁶⁹ Specifically, no cable operator, nor any entity owning an attributable interest in a cable operator, shall have an attributable interest in an MVDDS license if such cable operator’s service area significantly overlaps the MVDDS license area.⁷⁰

H. 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.⁷¹ This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions. Applicants must also certify as an attachment to their short-form application that they, and all parties to the application, will come into compliance with Section 101.1412(a) regarding eligibility restrictions for cable operators. This certification should be included as an attachment named “Eligibility Certification.”

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

After the short-form filing deadline (6:00 p.m. ET October 7, 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 control of the applicant, or increase a previously

⁶⁶ 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.”)

⁶⁷ *See* “WTB Reminds Prospective Broadband PCS Spectrum Auction Applicants of Default and Delinquency Disclosure Requirements,” *Public Notice*, 19 FCC Rcd 21920 (WTB 2004) (“*Auction Default Disclosure Public Notice*”); 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).

⁶⁸ *See Auction Default Disclosure Public Notice*, 19 FCC Rcd at 21920 (addressing relationship between Commission’s Red Light Display System and FCC Form 175 default and delinquency disclosure requirements for auction applicants).

⁶⁹ 47 C.F.R. § 101.1412; *see also Second Report and Order* at ¶¶159-170.

⁷⁰ 47 C.F.R. § 101.1412(a).

⁷¹ 47 C.F.R. § 1.2110(c)(2).

claimed bidding credit eligibility).⁷² 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 click on 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: auktion63@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 63 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.

J. 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 applications will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.⁷³

III. PRE-AUCTION PROCEDURES

A. Auction Seminar — September 28, 2005

On Wednesday, September 28, 2005, the FCC will sponsor a seminar for parties interested in participating in Auction No. 63 at the Federal Communications Commission headquarters, 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 MVDDS 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, September 26, 2005. Registrations are accepted on a first-come, first-served basis. The seminar is free of charge.

For individuals who are unable to attend, an Audio/Video webcast of this seminar will be available from the FCC's Auction 63 web page at <http://wireless.fcc.gov/auctions/63/>. Select the "Auction Seminar" link.

B. Short-Form Application (FCC Form 175) — Due October 7, 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 electronically⁷⁴ and be received at the Commission prior to 6:00 p.m. ET on October 7, 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.D, *below*.

Applications may generally be filed at any time beginning at noon ET on September 28, 2005, until 6:00 p.m. ET on October 7, 2005. Applicants are strongly encouraged to file early and are responsible for

⁷² See 47 C.F.R. § 1.2105.

⁷³ See 47 C.F.R. § 1.2105(b)(2).

⁷⁴ 47 C.F.R. § 1.2105(a).

allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on October 7, 2005.

Applicants must always click on 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. FCC Auctions 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 Technical Support 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 October 7, 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 control of the applicant, or increase a previously claimed bidding credit eligibility).⁷⁵

D. Upfront Payments — Due November 7, 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 in the proper account at Mellon Bank by 6:00 p.m. ET on November 7, 2005.**

1. Making Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on November 7, 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:

⁷⁵ 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 # 910-0198

Originating Bank Information 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: A63U)

FCC CODE 1: (same as FCC Form 159, block 28A: “63”)

PAYER NAME: (same as FCC Form 159, block 2)

LOCKBOX NO. # 358410

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 No. 63.” 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.⁷⁶ **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. 63 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 November 7, 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.

⁷⁶ 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.⁷⁷ 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.”⁷⁸ 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.⁷⁹

In the *Auction No. 63 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.⁸⁰ 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.⁸¹

In the *Auction No. 63 Comment Public Notice*, the Bureau proposed upfront payments on a license-by-license basis as follows:

The upfront payment for each license in Auction No. 63 is based on 50 percent of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of \$1,000 per license.⁸²

The specific upfront payments and bidding units for each license are set forth in Attachment A of this public notice.⁸³

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

⁷⁷ 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*”).

⁷⁸ *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).

⁷⁹ 47 C.F.R. § 1.2110(b).

⁸⁰ *Auction No. 63 Comment Public Notice* at 3.

⁸¹ Provisionally winning bids are bids that would become final winning bids if the auction were to close after the given round. (*See* below Section IV.B.4).

⁸² *See* Auction of Licenses in the Multichannel Video Distribution and Data Service Rescheduled for January 14, 2004, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures, *Public Notice*, 18 FCC Rcd 17553 (2003) (“*Auction No. 53 Procedures Public Notice*”).

⁸³ 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.

calculation, an applicant should add together the upfront payments for all licenses on which it seeks to be active 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	Market Name	Bidding Units	Upfront Payment
MVD038	Grand Rapids-Kalmzoo-B.Crk	47,000	\$47,000
MVD207	Helena	1,600	\$1,600

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 48,600 bidding units (47,000 + 1,600). If a bidder only wishes to bid on one, but not both, purchasing 47,000 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 1,600 bidding units, it would have enough eligibility for the Helena license but not for the Grand Rapids-Kalmzoo-B.Crk 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 1.5.⁸⁴ 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. 63 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

⁸⁴ 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.⁸⁵) 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 SecurID cards that will be required to place bids, the Integrated Spectrum Auction System (ISAS) Bidder's Guide, and the Auction Bidder Line 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, December 1, 2005, should call (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.

In the event that SecurID cards are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacement registration material. Qualified bidders requiring the replacement of these items must call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

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 electronically and telephonically. 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 Auction 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. 63.

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 – December 5, 2005

All qualified bidders will be eligible to participate in a mock auction on Monday, December 5, 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.

⁸⁵ 47 C.F.R. §1.1910.

IV. AUCTION EVENT

The first round of bidding for Auction No. 63 will begin on Wednesday, December 7, 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. 63 Comment Public Notice*, we proposed to award all licenses in Auction No. 63 in a simultaneous multiple round auction.⁸⁶ 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 MVDDS 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. 63 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.⁸⁷ We received no comments on this issue.

For Auction No. 63 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 be active. 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 of the licenses selected on its FCC Form 175 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

⁸⁶ *Auction No. 63 Comment Public Notice* at 3.

⁸⁷ *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. 63.

3. Auction Stages

In the *Auction No. 63 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.⁸⁸ 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 95 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 95 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 twenty-nineteenths (20/19).

CAUTION: Since activity requirements increase in Stage Two, bidders must carefully check their activity during 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 the proper pace in previous auctions, we adopt them for Auction No. 63.

4. Stage Transitions

In the *Auction No. 63 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 lower for three consecutive rounds of bidding.⁸⁹ We further proposed that the Bureau would retain the discretion

⁸⁸ *Id.* at 4.

⁸⁹ The percentage of bidding units receiving new provisionally winning bids is reported as the “Stage Transition Percentage” on the Results tab of the FCC Auction System.

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 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.⁹⁰ We received no comments on this issue.

We adopt our proposal. Thus, the auction will start in Stage One and will generally advance 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).⁹¹ 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,⁹² 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. 63.

5. Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 63 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.⁹³ We received no comments on this issue.

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. If a bidder has no waivers remaining and does not satisfy the activity requirement, the FCC Auction System will permanently reduce the bidder's eligibility, 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

⁹⁰ *Auction No. 63 Comment Public Notice* at 4.

⁹¹ The stage of the auction does not affect the auction stopping rules; the auction may conclude in Stage One. *See infra* Section IV.A.6 "Auction Stopping Rules."

⁹² 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.

⁹³ *Auction No. 63 Comment Public Notice* at 4-5.

Stages” (see Section IV.A.3 above). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

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. 63, the Bureau proposed to employ a simultaneous stopping rule approach.⁹⁴ 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.⁹⁵ 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. 63 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. 63, 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. 63 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,

⁹⁴ *Id.* at 9.

⁹⁵ *Id.* at 9.

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.⁹⁶

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.⁹⁷ 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.⁹⁸ 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.⁹⁹ The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.¹⁰⁰

⁹⁶ *Id.* at 5.

⁹⁷ 47 U.S.C. § 309(j)(4)(F).

⁹⁸ 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*”).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 63 and to retain discretion to lower the minimum opening bids.¹⁰¹ Specifically, for Auction No. 63, the Bureau proposed to calculate minimum opening bids on a license-by-license basis as follows:

The minimum opening bid amount for each license in Auction No. 63 is based on a 50 percent reduction of the corresponding minimum opening bid amount from Auction No. 53,¹⁰² with a minimum of \$1,000 per license.¹⁰³

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.¹⁰⁴

We adopt our proposal. The minimum opening bid amounts we adopt for Auction No. 63 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. 63 are set forth in Attachment A.

3. Minimum Acceptable Bid Amounts and Bid Increment Amounts

In the *Auction No. 63 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.¹⁰⁵ We further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if we determine that circumstances so dictate.¹⁰⁶ 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.¹⁰⁷ The FCC Auction System will list the nine acceptable bid amounts for

¹⁰¹ *Auction No. 63 Comment Public Notice* at 6-7.

¹⁰² *See Auction No. 53 Procedures Public Notice*, 18 FCC Rcd 17553.

¹⁰³ 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.

¹⁰⁴ *Auction No. 63 Comment Public Notice* at 7.

¹⁰⁵ *Id.*

¹⁰⁶ *Auction No. 63 Comment Public Notice* at 7.

¹⁰⁷ Bidders must have sufficient eligibility to place a bid on the particular license. *See supra* Section III.D.3 “Amount of Upfront Payment.”

each license.¹⁰⁸ 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, 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 percent. 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,¹⁰⁹ 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 they determine that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System. The Bureau may also use their 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” will be determined based on the highest bid amount received for each license. 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. Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.¹¹⁰

In the *Auction No. 63 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).¹¹¹ No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A pseudo-random number generator based on the L’Ecuyer algorithms will be used to assign a random number to each bid.¹¹² 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

¹⁰⁸ In the event of duplicate bid amounts due to rounding, the FCC Auction System will omit the duplicates and will list fewer than nine acceptable bid amounts for the license.

¹⁰⁹ See *infra* Section IV.B.6 “Bid Removal and Bid Withdrawal.”

¹¹⁰ See *supra* Section IV.A.2.

¹¹¹ *Auction No. 63 Comment Public Notice* at 8.

¹¹² 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>.

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.

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 current bidding round, or permanently reduce eligibility. Bidders also have the option of submitting and removing multiple bids and withdrawing multiple provisionally winning bids (subject to the limitation on withdrawal rounds discussed below) during a 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 current activity.

All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction No. 63. Please note that 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.

A bidder's ability to bid on specific licenses is determined by two factors: (1) the licenses applied for on the bidder's FCC Form 175 and (2) the bidder's current eligibility. 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 passcode 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.¹¹³ For each license, the FCC Auction System will list the nine acceptable bid amounts in a drop-down box.¹¹⁴ Bidders use the drop-down box to select from among the acceptable 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.

¹¹³ Bidders must have sufficient eligibility to place a bid on the particular license. *See supra* Section III.D.3 "Amount of Upfront Payment."

¹¹⁴ In the event of duplicate bid amounts due to rounding, the FCC Auction System will omit the duplicates and will list fewer than nine acceptable bid amounts for the license.

6. Bid Removal and Bid Withdrawal

In the *Auction No. 63 Comment Public Notice*, the Commission proposed bid removal and bid withdrawal procedures.¹¹⁵ 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 each bidder's discretion. We received no comments on this issue.

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. 63.

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 already withdrawn bids in a previous round). 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 anti-competitive behavior 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. 63, 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. We base our decision on this issue upon our experience with bid withdrawals in prior auctions, including PCS D, E and F block and 800 MHz SMR, and FM broadcast auctions. Our decision is in no way a reflection of our view regarding the likelihood of any "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.¹¹⁶ 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.¹¹⁷ If a bidder withdraws its bid and there is no higher bid in the same or subsequent

¹¹⁵ *Auction No. 63 Comment Public Notice* at 8.

¹¹⁶ The Bureau retains the discretion to lower the minimum acceptable bid on such licenses in the next round or in later rounds.

¹¹⁷ 47 C.F.R. §§ 1.2104(g), 1.2109.

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).¹¹⁸ 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 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).¹¹⁹ 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.¹²⁰ 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.¹²¹

7. Round Results

Bids placed during a round will not be made public until the conclusion of that round. 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. 63 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.I., 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 click on 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

¹¹⁸ 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).

¹¹⁹ See following paragraph for discussion of interim bid withdrawal payments.

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

¹²¹ 47 C.F.R. § 1.2104(g).

summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auktion63@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 63 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.

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. 63 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business, very small business, or entrepreneur 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. 63. Winning bidders that are very small businesses, small businesses, or entrepreneurs must demonstrate their eligibility for very small business, small business, or entrepreneur 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).¹²²

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.¹²³ 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.¹²⁴ 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.¹²⁵

G. Refund of Remaining Upfront Payment Balance

All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 63 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

¹²² See also 47 C.F.R. § 1.2110(f)(3)(ii) & (vii).

¹²³ 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).

¹²⁴ See 47 C.F.R. § 1.2109(b) and (c).

¹²⁵ 47 C.F.R. § 1.2109(d).

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:

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: Chelsea Fallon (202) 418-7991

Auctions and Spectrum Access Division:

For legal questions: Brian Carter at (202) 418-0660

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

Broadband Division:

For legal questions: Mindy Littell at (202) 418-2487

For technical questions: Michael Pollak at (202) 418-2487

To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

- FCC -

VI. ATTACHMENT A

Auction No. 63 - Multichannel Video Distribution and Data Service (MVDDS)

Market Number	Description	License Number	Frequencies (GHz)	Bandwidth (MHz)	Bidding Units	Upfront Payment	Minimum Opening Bid
MVD038	Grand Rapids-Kalmzoo-B.Crk	DV-MVD038	12.2 -12.7	500	47,000	\$47,000	\$47,000
MVD040	Birmingham (Ann and Tusc)	DV-MVD040	12.2 -12.7	500	46,000	\$46,000	\$46,000
MVD132	Chico-Redding	DV-MVD132	12.2 -12.7	500	12,000	\$12,000	\$12,000
MVD136	Duluth-Superior	DV-MVD136	12.2 -12.7	500	12,000	\$12,000	\$12,000
MVD149	Bluefield-Beckley-Oak Hill	DV-MVD149	12.2 -12.7	500	9,500	\$9,500	\$9,500
MVD150	Wheeling-Steubenville	DV-MVD150	12.2 -12.7	500	9,500	\$9,500	\$9,500
MVD153	Bangor	DV-MVD153	12.2 -12.7	500	9,000	\$9,000	\$9,000
MVD167	Utica	DV-MVD167	12.2 -12.7	500	7,000	\$7,000	\$7,000
MVD173	Elmira	DV-MVD173	12.2 -12.7	500	6,500	\$6,500	\$6,500
MVD175	Rapid City	DV-MVD175	12.2 -12.7	500	6,000	\$6,000	\$6,000
MVD176	Watertown	DV-MVD176	12.2 -12.7	500	6,000	\$6,000	\$6,000
MVD177	Marquette	DV-MVD177	12.2 -12.7	500	6,000	\$6,000	\$6,000
MVD184	Grand Junction-Montrose	DV-MVD184	12.2 -12.7	500	4,800	\$4,800	\$4,800
MVD185	Meridian	DV-MVD185	12.2 -12.7	500	4,700	\$4,700	\$4,700
MVD190	Eureka	DV-MVD190	12.2 -12.7	500	3,900	\$3,900	\$3,900
MVD193	St. Joseph	DV-MVD193	12.2 -12.7	500	3,800	\$3,800	\$3,800
MVD198	Ottumwa-Kirksville	DV-MVD198	12.2 -12.7	500	3,400	\$3,400	\$3,400
MVD205	Presque Isle	DV-MVD205	12.2 -12.7	500	2,000	\$2,000	\$2,000
MVD207	Helena	DV-MVD207	12.2 -12.7	500	1,600	\$1,600	\$1,600
MVD208	Alpena	DV-MVD208	12.2 -12.7	500	1,200	\$1,200	\$1,200
MVD209	North Platte	DV-MVD209	12.2 -12.7	500	1,100	\$1,100	\$1,100
MVD210	Glendive	DV-MVD210	12.2 -12.7	500	1,000	\$1,000	\$1,000
Auction Total		22 Licenses			204,000	\$204,000	\$204,000

Note: After Auction No. 53, the Bureau revised the market designators for MVDDS licenses to “MVD.” Consequently, MVDDS licenses are designated with license numbers beginning with the letters “MVD.” See WTB Announces Changes in the Universal Licensing System to Revise the Names of Market Designators for Multichannel Video Distribution and Data Service Licenses, *Public Notice*, 19 FCC Rcd 10679 (2004).

VII. ATTACHMENT B

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 63

The FCC will sponsor a one-day seminar for Auction No. 63 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, September 28, 2005
Federal Communications Commission
445 12th Street, SW
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 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, September 26, 2005, by fax to:

FCC Auction 63
Auctions and Spectrum Access Division
1270 Fairfield Road
Gettysburg, PA 17325-7245

FAX: 717-338-2850

Phone: 717-338-2888

Note: The seminar will also be available via webcast and may be viewed by clicking on the Auction Seminar link on the Auction No. 63 web page, <http://wireless.fcc.gov/auctions/63/>. For further information about accessing FCC webcasts, please visit <http://www.fcc.gov/realaudio/>.

I/We will attend the Auction No. 63 Seminar, scheduled for Wednesday, September 28, 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

NOTICE

The Federal Communications Commission uses information collected in FCC Form 175 in determining whether applicants are legally, technically, and financially qualified to participate in Commission auctions for licenses or permits. In addition, if an applicant applies for status as a particular type of auction participant pursuant to Commission rules, the Commission uses the information in determining whether the applicant is eligible for the status requested. The Commission's auctions, including the collection of information to determine applicants' qualifications to participate pursuant to Commission rules and requirements, are designed to limit the competitive bidding to qualified applicants; to deter possible abuse of the bidding and licensing process; and to enhance the use of competitive bidding to assign Commission licenses and permits in furtherance of the public interest.

The Commission estimates that each response to this collection of information will take on average 1.5 hours. This estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, D.C. 20554, Paperwork Reduction Project (3060-0600). PLEASE DO NOT SEND COMPLETED APPLICATION FORMS TO THIS ADDRESS.

The information collected in FCC Form 175 is required to be filed by all applicants to participate in a Commission auction, pursuant to Section 309(j)(5) of the Communications Act and section 1.2105 of the Commission's rules. See 47 U.S.C. § 309(j)(5), 47 C.F.R. § 1.2105. Information collected in a submitted FCC Form 175 will be available for public inspection.

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a current valid OMB control number with this notice. This collection has been assigned OMB control number 3060-0600.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

Applicants must submit their FCC Form 175 applications electronically, via the Internet. **FCC Form 175 applications must be submitted and confirmed prior to 6:00 p.m. ET on Friday, October 7, 2005.** Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants are reminded that all information required in connection with applications to participate in spectrum auctions is necessary to determine the applicants' qualifications, and as such will be available for public inspection. Accordingly, applicants should not include any unnecessary sensitive information, such as Taxpayer Identification Numbers or Social Security Numbers, in Form 175s. Applicants may request that information submitted not be made routinely available for public inspection following the procedures set forth in 47 C.F.R. § 0.459.

Pursuant to Section 0.459(a), such requests must be included as an attachment to Form 175 and identify the information to which the request applies. Because the required information bears on applicants' qualifications, confidentiality requests will not be routinely granted.

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

Software Requirements

Applicants must meet the following minimum software requirements:

- Web Browser:
 - Microsoft® Internet Explorer 6.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.4.2_05 installed.
 - or
 - Netscape® Communicator™ 6.0 or higher, with Java Plug-In Version 1.4.2_05.

Java Plug-In Version 1.4.2_05 is available for downloading at http://java.sun.com/products/archive/j2se/1.4.2_05/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.¹²⁶ 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 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 is used to determine what additional information is needed, and what subsequent screens will appear to collect that information. For example, a corporate applicant, unlike an individual applicant, must identify a corporate officer or director responsible for the application. If an applicant identifies itself as an individual, no additional information is needed regarding an additional responsible

¹²⁶ See generally, 47 C.F.R. § 1.2105.

party, and screens requesting responsible party information will not appear. However, if the applicant identifies itself as a corporation, subsequent screens in the Form 175 will ask for responsible party information.

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 basic information including

- 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 a rural telephone company;
- the applicant's name, which will be used as the bidder name during the auction
- citizenship (for individuals), or jurisdiction of formation for legal entities;
- for applicants classified as legal entities, *e.g.*, corporations and partnerships, the name of and information regarding the entity's responsible individual
- the name, address, telephone and fax number of a contact person who will communicate 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
- whether the applicant claims eligibility for certain types of bidding credits and the amount claimed.¹²⁷

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.
- 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. While applicants may change their authorized bidders at a later date, only those bidders listed on the Form 175 will be authorized to place or withdraw bids for the applicant during the auction.

¹²⁷ See generally, 47 C.F.R. § 1.2105(a)(2)(ii)(A).

- Any qualified bidder may bid either via the Internet or by telephone during the auction. Specifying a preference for electronic or telephonic bidding assists the Commission in determining 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 on the Form 175.¹²⁸ Be advised that there is no opportunity to change this list once the short-form filing deadline passes on October 7, 2005.

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 (on the left) of all licenses on which the applicant may be eligible to bid ("Eligible Licenses"); and 2) a list (on the right) 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. The online FCC Form 175 application provides filters that enable you to generate a list of licenses. Once you obtain this customized list, you can use it to select the licenses you are interested in.

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.

¹²⁸ 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.¹²⁹

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 identifying name for the agreement and must identify the parties, other than the applicant, to the agreement. The agreement identifier can be a brief description of the agreement or a simple reference name; however, each agreement identifier must be unique.

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

¹²⁹ 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 agreement, 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.¹³⁰ Commission rules also require the disclosure and description of FCC-regulated businesses that are owned by the applicant and parties with certain ownership interests in the applicant.¹³¹ 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

Some applicants may have previously filed FCC Form 602 disclosing ownership information in connection with wireless services. 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

- **Section 1.2112(a) of the Commission's rules lists the interest holders in the applicant that must be disclosed in Form 175.**¹³²
- **Section 1.2112(a)(7) lists the FCC-regulated business entities, or applicants for an FCC license, that must be disclosed in Form 175.**¹³³

¹³⁰ See generally, 47 C.F.R. §§ 1.2105(a)(2)(ii)(B), 1.2110 and 1.2112.

¹³¹ See 47 C.F.R. § 1.2112.

¹³² 47 C.F.R. § 1.2112(a). Section 1.2105 requires the disclosure on the short form of applicant ownership information, as set forth in Section 1.2112.

¹³³ 47 C.F.R. § 1.2112(a)(7).

For an applicant not claiming eligibility for bidding credits based on revenues, the initial *Ownership* screen enables the applicant to: 1) add information regarding a disclosable interest holder; 2) add information regarding the FCC-regulated businesses in which the applicant has an interest; or 3) upload ownership information from a file prepared by the applicant.

Uploading information from a file prepared by the applicant is an alternative to individually keying information into the *Ownership* screens in Form 175. Applicants may 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 with large amounts 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 in relation to wireless services. Instructions on how to prepare and upload such a file are provided at <http://wireless.fcc.gov/auctions/ownership-upload>. 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,¹³⁴ 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.¹³⁵ 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,¹³⁶ 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.

¹³⁴ See 47 C.F.R. § 1.2112(a)(6).

¹³⁵ *Id.*

¹³⁶ See 47 C.F.R. § 1.2112(b)(1)(i).

- 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 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.¹³⁷

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.¹³⁸ The Commission’s definition of an affiliate of the applicant encompasses both

¹³⁷ 47 C.F.R. § 1.2110(n).

¹³⁸ See 47 C.F.R. § 1.2112(b)(1)(iii).

controlling interests of the applicant and affiliates of controlling interests of the applicant.¹³⁹ 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.

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.¹⁴⁰

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.¹⁴¹ 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,¹⁴² 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

¹³⁹ See 47 C.F.R. § 1.2110(c)(5).

¹⁴⁰ See 47 C.F.R. § 1.2112(b)(1)(iii).

¹⁴¹ 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).

¹⁴² See 47 C.F.R. § 1.2112(b)(1)(iii).

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 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.¹⁴³

5. Summary

The *Summary* 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 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 to provide 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 and applicants cannot rely on the automated check to determine the completeness or the accuracy of submitted information.

¹⁴³

Id.

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.

Applicants should include as an attachment a certification that they, and all parties to the application, will come into compliance with Section 101.1412(a) of the Commission’s rules relating to eligibility restrictions for cable operators.

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 5.x or earlier, Adobe PDF, and ASCII text--and must verify that the files contain all exhibit information. Files may be no larger than 10 Mb. Graphics files (e.g., .bmp, .tiff, .jpg) and spreadsheets (e.g., Excel, Lotus) are supported but not recommended. Files must not be password-protected.

7. Certify and Submit

The *Certify and Submit* screens are the 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 processes.¹⁴⁴ As mentioned above, 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.¹⁴⁵ Applicants are reminded 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.

¹⁴⁴ See generally, 47 C.F.R. § 1.2105(a)(2) (iv)-(vii) and (ix)-(xi).

¹⁴⁵ See *id.*

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.¹⁴⁶ 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.¹⁴⁷

The second *Certify and Submit* screen lists the certifications required of all applicants in the Commission's competitive bidding processes 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.

FCC Form 175 applications must be submitted and confirmed prior to 6:00 p.m. ET on Friday, October 7, 2005. Late applications or unconfirmed submissions of electronic data will not be accepted.

8. Withdrawing an Application Before the Short-Form Filing Deadline And Updating Existing Applications

a. 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. Applications may not be withdrawn after the short-form filing deadline.

b. 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

¹⁴⁶ See 47 C.F.R. § 1.2105(a)(2)(xi).

¹⁴⁷ See 47 C.F.R. § 1.2106(a).

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.

After the short-form filing deadline (6:00 p.m. ET October 7, 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 control of the applicant, or increase a previously claimed bidding credit eligibility).¹⁴⁸

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 FCC Auctions Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY). Technical Support is available Monday through Friday from 8 a.m. to 6 p.m. ET. All calls to FCC Auctions Technical Support are recorded.

Technical Support can also be contacted electronically by filling out a help request form at <https://esupport.fcc.gov/request.htm>. On the Submit Help Request page, select **Integrated Spectrum Auction System (ISAS)** from the "FCC System" drop-down.

¹⁴⁸ 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. 63. 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 "358410"
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).

- 21 Applicant FRN (Complete only if applicant is different than payer.) – Enter the applicant’s ten-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
- 24A Payment Type Code - Enter “A63U”
- 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 “63” (indicating Auction No. 63).

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).

Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd 4277 (1995), Commercial Realty St. Pete, *Memorandum Opinion and Order*, 11 FCC Rcd 15374 (1996).

Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd 17970 (1997); Application of Mercury PCS II, LLC, *Memorandum Opinion and Order*, 13 FCC Rcd 23755 (1998).

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 374, 463-469 ¶¶ 155-166 (1997).

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*, 14 FCC Rcd 8816 (1999).

Application of Western PCS BTA I Corp., *Notice of Apparent Liability for Forfeiture*, 13 FCC Rcd 8305 (1998); Notice of Apparent Liability for Forfeiture of Western PCS BTA I Corp., *Memorandum Opinion and Order*, 14 FCC Rcd 21571, 21577-78 ¶ 20 (1999).

Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *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, MM Docket No. 94-13, *Order*, 11 FCC Rcd 9655 (Wireless Telecom. Bur. 1995).

Applications of GWI PCS, Inc., *Memorandum Opinion and Order*, 12 FCC Rcd 6441 (Wireless Telecom. Bur. 1997).

Applications of Mercury PCS II, LLC, *Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 18093 (Wireless Telecom. Bur. 1997).

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1. Public Notices:

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

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

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, 11 FCC Rcd 10134 (Wireless Telecom. Bur. 1996).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, 13 FCC Rcd 341 (Wireless Telecom. Bur. 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 from Kathleen O'Brien Ham, 10 FCC Rcd 13783 (Auc. Div. 1995).

Letter to Mark Grady from Kathleen O'Brien Ham, 11 FCC Rcd 10,895 (Auc. Div. 1996).

Letter to David L. Nace from Kathleen O'Brien Ham, 11 FCC Rcd 11,363 (Auc. Div. 1996).

Letter to Elliott J. Greenwald from Christopher J. Wright, 13 FCC Rcd 7132 (Gen. Counsel 1998).

Letter to Robert Pettit, from Margaret W. Wiener, 16 FCC Rcd 10080 (Auc. Div. 2000).

C. Enforcement Bureau Decisions:

Application of Star Wireless, LLC, *Forfeiture Order*, 19 FCC Rcd 18626 (Enf. Bur. 2004).

Application of Northeast Communications of Wisconsin, Inc., *Forfeiture Order*, 19 FCC Rcd 18635 (Enf. Bur. 2004).

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).

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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>.