



PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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AUCTION OF ADVANCED WIRELESS SERVICES LICENSES

Status of FCC Form 175 Applications to Participate in Auction No. 66

Report No. AUC-06-66-D (Auction No. 66)

The Wireless Telecommunications Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) has received 252 short-form applications (FCC Forms 175) to participate in the upcoming auction of Advanced Wireless Services licenses in the 1710-1755 MHz and 2110-2155 MHz bands (“AWS-1”) (Auction No. 66) which is scheduled to begin on Wednesday, August 9, 2006.¹ The applications have been reviewed for completeness and compliance with the Commission’s rules, and have been classified into the categories listed below.

Application Categories:

ACCEPTED FOR FILING 81 applications

INCOMPLETE 171 applications

Accepted: Applications accepted for filing are listed alphabetically in Attachment A. **These applicants will become qualified bidders upon receipt of the required upfront payment due before 6:00 p.m. Eastern Time (ET) on Monday, July 17, 2006.**² With respect to the FCC Form 175 application, these applicants need to take no further action except as may be necessary to maintain the accuracy and acceptability of their applications.³

Designation of an application as accepted for filing indicates that the applicant has provided the

¹ See “Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 66,” *Public Notice*, 21 FCC Rcd 4562 (2006) (“*Auction No. 66 Procedures Public Notice*”); see also “Auction of Advanced Wireless Services Licenses Rescheduled for August 9, 2006; Revised Schedule, Filing Requirements and Supplemental Procedures for Auction No. 66,” *Public Notice*, 21 FCC Rcd 5598 (2006).

² See 47 C.F.R. § 1.2106.

³ See 47 C.F.R. § 1.65 (an applicant must maintain the accuracy and completeness of information furnished in its pending application and notify the Commission within 30 days of any substantial change that may be of decisional significance to that application).

certifications and information concerning its qualifications as required by our competitive bidding rules for participation in the auction. We note that under the Commission's two-phased auction application process, a winning bidder must submit a long-form application after the close of the auction to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for status as a designated entity.⁴ Thus, a determination that a short-form application is complete and complies with the Commission's competitive bidding rules and policies is not determinative of an applicant's qualifications to hold a license or entitlement to a bidding credit.⁵

Incomplete: Applications found to be incomplete or deficient are listed alphabetically in Attachment B. Those applicants will receive overnight correspondence indicating what information is required to make their applications acceptable for filing. These applicants may become qualified bidders only if they complete the following actions: (1) make the required upfront payments before **6:00 p.m. ET on Monday, July 17, 2006**; and (2) resubmit their application by **6:00 p.m. ET on Tuesday, July 18, 2006**, having corrected the deficiencies indicated.⁶ Applicants also must maintain the accuracy of their short-form applications as required by the Commission's rules.⁷

The filing window for resubmitting short-form applications is now open and ends at **6:00 p.m. ET on Tuesday, July 18, 2006**. This will be the only opportunity to cure specified FCC Form 175 defects; late resubmissions will not be accepted. In addition, if an application remains incomplete or otherwise deficient after the resubmission deadline has passed, the application will be dismissed and the applicant will not be permitted to participate in the bidding.

1. UPFRONT PAYMENT DEADLINE

Upfront payments and accompanying FCC Remittance Advice forms (FCC Form 159) for Auction No. 66 are due in the proper account at Mellon Bank, Pittsburgh, Pennsylvania, not later than **6:00 p.m. ET on Monday, July 17, 2006**. 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.⁸ Payments must be made by wire transfer in accordance with the instructions provided in the *Auction No. 66 Procedures Public Notice*.⁹ No other payment method is acceptable for this auction. Applicants are reminded to provide their FCC Registration Number ("FRN") on the FCC Form 159. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must send by facsimile a completed FCC Form 159 (revised February 2003) to Mellon Bank at (412) 209-6045.

Applicants that have filed applications deemed to be incomplete or deficient, as noted in Attachment B to this public notice, must submit timely and sufficient upfront payments before the Commission will review

⁴ See 47 C.F.R. §§ 1.2107 – 1.2110; see also Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, *Second Report and Order*, 9 FCC Rcd 2348, 2376-77 ¶¶ 163-168 (1994).

⁵ As indicated in the attachments to this public notice, three applicants have requested waivers of Commission rules in their applications: (i) Allcom Communications, Inc.; (ii) Scott D. Reiter; and (iii) Shoreline Investments LLC. Indication of such applications as "accepted" or "incomplete" in this public notice do not constitute a determination of the outcome of such requests. Rather, requests concerning application qualifications and eligibility for designated entity status are generally considered after the auction during the long-form application process. In the event that an applicant is found unqualified to be a Commission licensee or ineligible for claimed designated entity benefits, it will be liable for any obligations incurred as a result of its participation in the auction. See generally 47 C.F.R. § 1.2109.

⁶ See 47 C.F.R. §§ 1.2105(b), 1.2106.

⁷ See 47 C.F.R. § 1.65.

⁸ 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).

⁹ *Auction No. 66 Procedures Public Notice* at ¶¶ 105-108.

their resubmitted applications. If no upfront payment is made, or the application remains incomplete or deficient following its resubmission, the application will be dismissed. When the applicant has provided its FRN and wire transfer instructions from the payor of record, any upfront payment made prior to dismissal will be refunded in a timely manner upon request.

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. We remind applicants that, to avoid untimely upfront payments, they should discuss arrangements (including transfer times and bank closing schedules) with their financial institution several days before making the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Detailed information regarding upfront payments, including additional requirements for “former defaulters,” can be found in the *Auction No. 66 Procedures Public Notice* under Section II.F. and Section III.D.¹⁰

Note: Applicants are reminded to submit the same FRN with all future payments for Auction No. 66.

2. OTHER IMPORTANT INFORMATION

Minor Corrections to Market Descriptions: In Attachment A to the *Auction 66 Procedures Public Notice*, eight market number descriptions contained minor typographical errors. Therefore, we have made minor corrections to these market names to conform to service areas described in Section 27.6(h)(3).¹¹ These corrections, which will be correctly displayed in the FCC’s Integrated Spectrum Auction System (“FCC Auction System”), are as follows: CMA125 is now “Appleton-Oshkosh-Neenah, WI;” CMA252 is now “Pascagoula, MS;” CMA386 is now “Hawaii 2 – Maui;” CMA394 is now “Illinois 1 - Jo Daviess;” CMA483 is now “Minnesota 2 - Lake of the Woods;” CMA622 is now “Pennsylvania 11 – Huntingdon;” CMA628 is now “South Carolina 4 – Chesterfield;” and CMA677 is now “Utah 5 – Carbon.”

Qualified Bidders: Approximately two weeks after the upfront payment deadline, following Commission review of resubmitted short-form applications and correlation of payments and applications, a public notice listing all applicants qualified to bid in the auction will be released (“*Auction 66 Qualified Bidders Public Notice*”). The *Auction 66 Qualified Bidders Public Notice* will also include bidding schedules for both the mock auction and the first day of Auction No. 66.

Due Diligence: Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the AWS-1 licenses in this auction. The Commission makes no representations or warranties about the use of this spectrum for particular services. Potential bidders are strongly encouraged to conduct their own research prior to the beginning of bidding in Auction No. 66 in order to determine the existence of pending proceedings, pleadings, applications, or authorizations that might affect their decisions regarding participation in the auction. Participants in Auction No. 66 are strongly encouraged to continue such research during the auction. In addition, potential bidders should perform technical analyses sufficient to assure themselves that, should they prevail in competitive bidding for a specific license, they will be able to build and operate facilities that will comply fully with the Commission’s technical and legal requirements. For further details regarding due diligence, please refer to the *Auction No. 66 Procedures Public Notice* under Section I.B.5.¹²

Prohibition of Collusion: Applicants are reminded that Section 1.2105(c) of the Commission’s rules prohibits applicants for any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements unless they have identified each other on their short-form

¹⁰ *Id.* at ¶¶ 82-87, 104-122.

¹¹ 47 C.F.R. § 27.6(h)(3).

¹² *Auction No. 66 Procedures Public Notice* at ¶¶ 37-47.

applications as parties with which they have entered into agreements under Section 1.2105(a)(2)(viii).¹³ In Auction No. 66, the rule would apply to any applicants applying for the same CMA, EA, or REAG licenses. The rule would also apply to applicants bidding for licenses in overlapping CMA, EA, and/or REAG markets. Consequently, applicants that applied to bid for all licenses would be prohibited from communicating with all other applicants. Thus, applicants that have applied for the same or overlapping markets (unless they have identified each other on their short-form applications as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii)) must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include communications regarding the post-auction market structure.¹⁴ In addition, Auction No. 66 applicants are reminded that information relating to bidder interests, bids and bidder identities that typically has been revealed prior to and during past Commission auctions remains non-public until further notice; communication to other applicants or public disclosure of such information may violate the anti-collusion rule.¹⁵

For Auction No. 66, this prohibition of collusion became effective at the short-form application filing deadline on June 19, 2006, and will end at the post-auction down payment deadline, which will be announced in a future public notice.¹⁶ **This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.**¹⁷ Moreover, as described in the *Auction No. 66 Procedures Public Notice*, due to limited disclosure in this auction, each applicant is being informed by letter of the identity of each of the other applicants that has applied for any of the same or overlapping geographic areas that it has selected in its short form application.¹⁸ For purposes of this prohibition, Section 1.2105(c)(7)(i) defines “applicant” as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, 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.¹⁹ We specifically note that a violation of the anti-collusion rule could occur when an individual serves as an officer and/or director for two or more competing applicants.²⁰

If parties had agreed in principle on all material terms of a bidding agreement(s), those parties must have been identified on the short-form application under Section 1.2105(c), even if the agreement had not been reduced to writing. If parties had not agreed in principle by the short-form application filing deadline on

¹³ 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1). *See also* 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) (“*Part 1 Seventh Report and Order*”); *id.*, *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, 15297-98 ¶¶ 7-8 (2000) (“*Part 1 Fifth Report and Order*”).

¹⁴ *See, e.g.*, “Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders,” *Public Notice*, DA 96-1460 (rel. Aug. 28, 1996).

¹⁵ *See Auction No. 66 Procedures Public Notice* at ¶¶ 15-23, 144-159.

¹⁶ 47 C.F.R. § 1.2105(c)(1).

¹⁷ *See, e.g.*, Northeast Communications of Wisconsin, LLC, *Forfeiture Order*, 19 FCC Rcd 18635 (2004) (imposing forfeiture in the amount of \$100,000 for violation of the anti-collusion rule, even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder); Letter to Robert Pettit, Esquire, from Margaret W. Wiener, Chief, Auctions and Industry Analysis Div., 16 FCC Rcd 10080 (2000) (declining to exempt 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).

¹⁸ *Auction No. 65 Procedures Public Notice* at ¶¶ 5, 158.

¹⁹ 47 C.F.R. § 1.2105(c)(7)(i).

²⁰ *See* Letter to Colby M. May from Barbara A. Kreisman and Margaret W. Wiener, 20 FCC Rcd 14648 (2005) (finding apparent violation of anti-collusion rule where applicants with mutually exclusive applications reported sharing same individual as an officer and director and reported no bidding agreement).

June 19, 2006, an applicant should not have included the names of those parties on its application, and must not have continued negotiations.²¹

Bidders competing for licenses for any of the same or overlapping geographic license areas must not communicate directly or indirectly about bids or bidding strategy.²² Applicants are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction.²³ Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm), a violation could likewise occur. In such a case, at a minimum, applicants should take precautionary steps to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.²⁴ However, the Bureau cautions that the mere existence of precautionary measures will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.²⁵

In addition, Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantive change that may be of decisional significance to that application.²⁶ Thus, Section 1.65 requires auction applicants that engage in communication of bids or bidding strategies that results 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, or other agreements or 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.²⁹ In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anti-competitive 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

²¹ See "Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, 11 FCC Rcd 9645 (1995).

²² *Part I Seventh Report and Order*, 16 FCC Rcd at 17540-50 ¶ 6.

²³ See *Auction No. 66 Procedures Public Notice* at ¶¶ 15-23.

²⁴ 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).

²⁵ *Id.* at 11978 ¶ 13.

²⁶ 47 C.F.R. § 1.65. See also *Auction No. 66 Procedures Public Notice* at ¶ 21.

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. §§ 1.2105(c), 1.2107(d), and 1.2109(d).

³⁰ See 47 C.F.R. § 1.2109(d).

Ex Parte Rule: Applicants should also be aware that the Commission has generally exempted auction proceedings from the strict requirements of the *ex parte* rule found in Section 1.1208 of the Commission's rules.³¹

Mock Auction: All applicants found to be qualified bidders will be eligible to participate in a mock auction on Monday, August 7, 2006. We encourage all qualified bidders to take advantage of this opportunity to become familiar with the FCC Auction System.³² In the *Auction 66 Qualified Bidders Public Notice*, the Bureau will announce the bidding schedule for the mock auction. The mock auction will be conducted over the Internet, and telephonic bidding will be available as well.

Electronic Bidding: Applicants are reminded that qualified bidders are eligible to bid either electronically or telephonically. Applicants should specify their bidding preference on the FCC Form 175, if they have not already done so.

Bidders can access the FCC Auction System over the Internet. Access to the system via the Internet requires, at a minimum, the following software:

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

Other browsers are not supported.

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>)

Currently, the Apple® Mac OS® is not supported.

Long-Form Applications: All applicants should be aware that at the long-form application stage, they will be subject to the more extensive reporting requirements contained in the Commission's Part 1 ownership disclosure rules.³³

Sample Auction Results Files: If Auction No. 66 is conducted with limited information released prior to and during the auction,³⁴ two types of reports will be available to bidders: (1) publicly-available information and (2) bidder-specific information available only to that bidder when logged in to the FCC Auction System. For each license, the FCC Auction System results page will list the following public information, current as of the conclusion of the most recently completed round: the provisionally winning bid amount, the minimum acceptable bid amount for the next round, the number of bids received in the most recently-completed round, the amount of each non-provisionally winning bid, and whether the license has a provisionally winning bid or is held by the FCC. This information will also be available in a

³¹ See 47 C.F.R. § 1.1208. See "Commission Announces that Mutually Exclusive 'Short-Form' Applications (Form 175) to Participate in Competitive Bidding Process ('Auctions') Are Treated as Exempt for *Ex Parte* Purposes," *Public Notice*, 9 FCC Rcd 6760 (1994). See also 47 C.F.R. § 1.1202(d)(1) Note 1.

³² For additional information regarding the FCC Auction System, including sample screen shots, visit the "About ISAS" web page at http://wireless.fcc.gov/auctions/about_isas.

³³ See 47 C.F.R. §§ 1.2107, 1.2112(b)(2).

³⁴ See *Auction No. 66 Procedures Public Notice* at ¶¶ 140-143.

downloadable file. The results page will also offer a list of FCC-held licenses (licenses without provisionally winning bids) in viewable and downloadable formats.

Bidder-specific information will be available when a bidder is logged in to the FCC Auction System. When logged in, each bidder will have a selection of “My Bid Reports” available to it on the FCC Auction System’s bidding page. Information in “My Bid Reports” allows only the respective bidder to view all of its actions in the current and previous rounds of the auction.

Samples of the results page downloadable files were made available for the pre-auction seminar held on April 24, 2006, and were posted to the web page for the seminar: http://wireless.fcc.gov/auctions/default.htm?job=auuction_seminar&id=66 (scroll down to the bottom of the page). Samples of the “My Bid Reports” files are now posted to the same location.

CONTACT INFORMATION

For questions about payment or instructions for wiring upfront payments, contact Gail Glasser, Auctions Accounting Group, at (202) 418-0578.

For specific questions about an applicant’s incomplete status, the applicant should contact the staff reviewer identified in the correspondence sent to the applicant by overnight mail.

For technical assistance in accessing the FCC Auction System, contact the FCC Technical Support Hotline at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY). The FCC Technical Support Hotline is generally available Monday through Friday from 8:00 a.m. to 6:00 p.m. ET. All calls to the FCC Technical Support Hotline are recorded.

For further information concerning this auction proceeding, contact:

Auctions and Spectrum Access Division, Wireless Telecommunications Bureau:

For legal questions: Scott Mackoul at (202) 418-0660

For bidding and software questions: Roy Knowles at (717) 338-2888

For bidding, auction procedures, and general filing questions: Lisa Stover at (717) 338-2888

Broadband Division, Wireless Telecommunications Bureau:

For legal and service rule questions: David Hu or John Spencer at (202) 418-0200

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