



PUBLIC NOTICE

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September 20, 2006

AUCTION OF ADVANCED WIRELESS SERVICES LICENSES CLOSES

Winning Bidders Announced for Auction No. 66

Down Payments due October 4, 2006
FCC Forms 601 and 602 due October 4, 2006
Final Payments due October 19, 2006
Ten-Day Petition to Deny Period

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

On September 18, 2006, the Federal Communications Commission completed the auction of Advanced Wireless Services licenses in the 1710-1755 MHz and 2110-2155 MHz bands (“AWS-1”) (Auction No. 66), raising (in net bids) a total of \$13,700,267,150. In this auction, 104 winning bidders won a total of 1,087 licenses.

The Commission established a reserve amount in Auction No. 66 in order to comply with a statutory requirement aimed at funding the relocation of federal government entities that currently operate in the 1710-1755 MHz band.¹ In order for Auction No. 66 to close in compliance with the statute, the total winning bids in this auction, net of bidding credits applicable at the close of bidding, were required to equal or exceed a reserve amount of approximately \$2.059 billion. At the close of Auction No. 66, the net total winning bids exceeded the reserve amount.

This Public Notice provides detailed information concerning winning bidders, down payments, final payments and/or refunds, FCC Forms 601 and 602 filing requirements, requests for rule waivers, and licensing matters. Key information appears in the following attachments:

Attachment A: “Winning Bids” lists winning bidders and both their gross and net winning bid amounts.

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, 4612-15 ¶¶ 188-200 (2006) (“*Auction No. 66 Procedures Public Notice*”) (Commission adoption of reserve amount for Auction No. 66 pursuant to the Commercial Spectrum Enhancement Act, Pub. L. No. 108-494, 118 Stat. 3986, Title II (2004) (codified in various sections of Title 47 of the United States Code), § 202 (codified at 47 U.S.C. § 923(g)(2))).

- Attachment B:** “Bidder Payment/Refund” lists down payments and final payments owed by winning bidders and refunds due, if any.²
- Attachment C:** “Withdrawal Payment Report” lists bid withdrawal payments owed by bidders, if any.
- Attachment D:** “Instructions for Completing FCC Form 601 & FCC Form 602” provides detailed information about how a winning bidder should complete the required FCC Form 601 and FCC Form 602 for AWS-1 license applications.

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

A. Down Payments

The Commission’s rules require that within ten business days after the release of this Public Notice, in this case before **6:00 p.m. Eastern Time (ET) on October 4, 2006**, winning bidders in Auction No. 66 must have on deposit with Mellon Bank in Pittsburgh, Pennsylvania, enough funds to cover 1) down payments on winning bids, and 2) payments for withdrawn bids, if applicable.³ If a winning bidder’s upfront payment is not sufficient to meet both of these requirements, the winning bidder must deposit additional funds.⁴

The amount now due from each winning bidder, if any, is set out in the “Additional Amount Due after Upfront Payment Balance Applied Due by October 4, 2006” column of **Attachment B**. Note that a payment and FCC Form 159 are necessary only if a winning bidder’s upfront payment does not cover the required total down payment and withdrawn bid payment (as reflected in Attachment B). Each winning bidder’s total deposit must be a total of any withdrawal payments (if applicable) plus twenty percent of the net amount of its winning bids.

B. Final Payments

Each winning bidder will be required to submit the balance of the net amount of its winning bid by October 19, 2006,⁵ as set out in the “Final Balance Due By October 19, 2006 or (Refund)” column of Attachment B. All winning bidders, including those winning bidders that apply for a tribal lands bidding credit, must pay the full amount of the Final Balance Due shown in Attachment B before **6:00 p.m. ET on October 19, 2006**, (or before 6:00 p.m. ET on November 2, 2006, along with the five percent late fee required by Section 1.2109(a) of the Commission’s rules).⁶ Full and timely payment of winning bids and

² The amounts listed in Attachment B are based on upfront payments, winning bids, and withdrawn bids. The amounts have not been adjusted to reflect any upfront payments already refunded.

³ See 47 C.F.R. § 1.2107(b).

⁴ *Id.* In the event a bidder has withdrawn a bid(s) and is subject to a bid withdrawal payment(s), the bidder’s upfront payment will be first applied to satisfy the withdrawal payment(s) before being applied toward its down payment. See 47 C.F.R. § 1.2104(g)(1).

⁵ See 47 C.F.R. § 1.2109(a).

⁶ *Id.*

any applicable late fees must be made in accordance with Section 1.2109(a) and must occur before a winning bidder's long-form application (FCC Form 601) will be acted upon.⁷

If an applicant's request for a tribal lands bidding credit is approved, the Commission will deduct the amount of the tribal lands bidding credit from the eligible applicant's auction payments on deposit (including the final payment), and that amount will later be refunded to the payer of record as identified on FCC Remittance Advice Form (FCC Form 159).

C. Method of Payment for Down and Final Payments

All payments must be in U.S. dollars and made in the form of a wire transfer. No personal checks, credit card payments, or other forms of payment will be accepted. All payments must be accompanied by a completed FCC Form 159.⁸

Questions concerning the calculation and submission of down and final payments, the FCC Form 159, and refunds should be directed to Gail Glasser at (202) 418-0578.

To submit funds by wire transfer, winning bidders will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
500 Ross Street
Pittsburgh, PA 15262
BNF: FCC Account Number 911-6106
OBI Field: (Skip one space between each information item) "AUCTIONPAY"
APPLICANT'S FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 21)
PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "A66D")
PAYOR NAME: (same as FCC Form 159, Block 2)
LOCKBOX NO.: #358850

1. Down Payment. If applicable, a partially completed copy of the FCC Form 159 will be sent to winning bidders to facilitate submission of the correct down payment. Please note, however, that a winning bidder is responsible for insuring timely submission of the correct down payment, timely filing of an accurate and complete FCC Form 159, and obtaining confirmation from its financial institution that Mellon Bank has timely received the down payment and deposited it into the proper account.

Wire transfers for down payments must be received by Mellon Bank before **6:00 p.m. ET on October 4, 2006**. A winning bidder should coordinate with its financial institution ahead of time regarding its wire transfer and allow sufficient time for the wire transfer to be initiated and completed prior to the deadline.

At least one hour before placing the order for the wire transfer (but on the same business day), winning bidders must send by facsimile the completed FCC Form 159 to Mellon Bank at (412) 209-6045. Proper

⁷ 47 C.F.R. § 1.2109.

⁸ Copies of the FCC Form 159 may be obtained by calling the Commission's Forms Distribution Center at (800) 418-3676 (outside Washington, D.C.) or (202) 418-3676 (in the Washington D.C. area). Copies of the FCC Form 159 can also be obtained via the Internet (<http://www.fcc.gov/formpage.html>) or by calling from the handset of a facsimile machine the Commission's Fax Information System at (202) 418-2830.

completion of the FCC Form 159 is critical to ensuring correct credit of bidder deposits. A winning bidder must use the same FCC Registration Number (FRN) used on its FCC Form 175.

Failure to complete the down payment before **6:00 p.m. ET on October 4, 2006**, will result in default.⁹

2. Final Payment. If applicable, a partially completed copy of the FCC Form 159 will be sent to winning bidders to facilitate submission of the correct final payment. Please note, however, that a winning bidder is responsible for insuring timely submission of the correct final payment, timely filing of an accurate and complete FCC Form 159, and obtaining confirmation from its financial institution that Mellon Bank has timely received the final payment and deposited it in the proper account.

Wire transfers for final payments must be received by Mellon Bank **before 6:00 p.m. ET on October 19, 2006** (or before 6:00 p.m. ET on November 2, 2006, along with the five percent late fee required by Section 1.2109(a) of the Commission's rules).¹⁰ An applicant should coordinate with its financial institution ahead of time regarding its wire transfer and allow sufficient time for the wire transfer to be initiated and completed prior to the deadline.

Payments must be preceded by the completed FCC Remittance Advice Form (FCC Form 159). The applicant must send by facsimile, on the same business day that it pays the balance due to Mellon Bank, a completed FCC Form 159 to Mellon Bank at (412) 209-6045 at least one hour prior to placing the order for the wire transfer. On the FCC Form 159, the applicant must use the same FRN used on its FCC Form 601.

Failure to complete the final payment before **6:00 p.m. ET on November 2, 2006** (along with the five percent late fee, if applicable) will result in default.¹¹

D. Withdrawal, Default and Disqualification Payments

The Commission imposes payments on bidders that withdraw provisionally winning bids during the course of an auction, those that default on payments due after an auction closes, and those that are disqualified.¹²

1. Bid Withdrawal Payments. A bidder (Bidder X) that withdraws a provisionally winning bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid. If a provisionally winning bid is withdrawn on a license that remains unsold at the close of the auction, Bidder X will be required to make an interim payment equal to ten percent of the net amount of the withdrawn bid.¹³ This payment amount is deducted from any upfront payments or down payments that Bidder X has deposited with the Commission. If, in a subsequent auction, that license receives a valid bid in an amount equal to or greater

⁹ See Section D., *infra*.

¹⁰ 47 C.F.R. § 1.2109(a).

¹¹ See Section D., *infra*.

¹² See 47 C.F.R. §§ 1.2104(g), 1.2109.

¹³ See 47 C.F.R. § 1.2104(g)(1); *Auction No. 66 Procedures Public Notice*, 21 FCC Red at 4623 ¶ 239 (adopting for Auction No. 66 an interim withdrawal payment equal to 10 percent of the amount of the withdrawn bids).

than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and upon appropriate request, the Commission will refund the interim ten percent payment. If, in a subsequent auction, the winning bid amount for that license is less than Bidder X's withdrawn bid amount, then Bidder X will be required to make a final bid withdrawal payment equal to either the difference between Bidder X's net withdrawn bid and the subsequent net winning bid, or the difference between Bidder X's gross withdrawn bid and the subsequent gross winning bid, whichever difference is smaller. The ten percent interim payment will be applied toward the withdrawal payment.

Attachment C identifies bidders that owe withdrawal payments to the Commission as a result of bid withdrawals made in Auction No. 66. Any upfront payments or down payments that the withdrawing bidder has deposited with the Commission will first be applied to satisfy the withdrawal payment(s) amount before being applied toward a winning bidder's down payment.¹⁴

2. Bid Default/Disqualification Payments. If a winning bidder defaults on a down payment or final payment obligation or is disqualified (e.g., fails to submit a timely long-form application) after the close of the auction, the defaulting bidder will be subject to bid withdrawal payment obligations as described above. In addition to any withdrawal payments, the defaulting bidder will be assessed a default payment, to be determined as follows. If no withdrawal payment is assessed because the subsequent winning bid amount is equal to or greater than the defaulted bid amount, the default payment is equal to ten percent of the net amount of the defaulted bid. If withdrawal payments are assessed because the subsequent winning bid is less than the amount of the defaulted bid, the default payment is equal to ten percent of the subsequent winning bid, in net or gross terms depending upon whether the withdrawal payment is based on net or gross bids. To illustrate, if the withdrawal payment is determined based on differences in gross bids, the default payment is equal to ten percent of the gross amount of the subsequent winning bid.

If a winning bidder fails to remit the required down payment within ten business days after the Commission has released this Public Notice, in this case by October 4, 2006, the bidder will be deemed to have defaulted, its long-form application will be dismissed, and it will be liable for a default payment as described above.¹⁵

If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten business days after the payment deadline provided that it also pays a late fee equal to five percent of the amount due.¹⁶ When a winning bidder fails to pay the balance of its winning bid plus the late fee by the late payment deadline, it will be deemed to have defaulted and subject to the applicable default payments.¹⁷

Licenses will be awarded only after a determination that an applicant's long-form application meets Commission requirements for grant and the full and timely payment of winning bids and any applicable late fees.¹⁸ If a winning bidder defaults on any of its required payments or is disqualified for any reason

¹⁴ See 47 C.F.R. § 1.2104(g)(1).

¹⁵ See 47 C.F.R. §§ 1.2104(g), 1.2109(g)(2).

¹⁶ See 47 C.F.R. §§ 1.2109(a).

¹⁷ See 47 C.F.R. §§ 1.2104(g)(2), 1.2109(a), 1.2109(c).

¹⁸ See 47 C.F.R. §§ 1.2109(a).

after having made the required down payment, it will be deemed to have defaulted, its application will be dismissed, and it will be liable for the payment set forth in Section 1.2104(g)(2).¹⁹

In the event of a default, the Commission, at its discretion, may either auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids.²⁰

Additionally, bidders that are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of their upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.²¹

E. Refund of Excess Payments

Upfront monies on deposit that are in excess of the required final payment and/or default payment amounts will be refunded to the payer of record as identified on the FCC Form 159 promptly at the close of the auction, if the necessary refund request and wire transfer instructions have been received. Applicants should provide this information by accessing the "See Wire Transfer for Refund Purposes" link under the Post-Auction section of the My Auctions web page prior to **October 19, 2006**. After this date, applicants must send a request for refund along with the necessary wire transfer instructions and FRN by facsimile to Gail Glasser of the Office of the Managing Director at (202) 418-2843. Any questions concerning refunds should be referred to Gail Glasser at (202) 418-0578.

F. FCC Form 601

Before **6:00 p.m. ET on October 4, 2006**, a winning bidder must submit electronically a properly completed long-form application (FCC Form 601) for all licenses for which it was the winning bidder. **Attachment D** sets out instructions for completing the FCC Form 601, including information about the pre-filing of the FCC Form 601 from a winning bidder's FCC Form 175.²²

An applicant that fails to submit the required long-form application before the specified deadline and fails to establish good cause for any late-filed submission shall be deemed to have defaulted and shall be subject to the payments set forth in Section 1.2104(g) of the Commission's rules.²³

¹⁹ See 47 C.F.R. §§ 1.2104(g)(2), 1.2109.

²⁰ See 47 C.F.R. § 1.2109(b)-(c).

²¹ See 47 C.F.R. § 1.2109(d).

²² The information collection associated with FCC Form 601 was revised in the *Designated Entity Second Report and Order* and the revision was approved by the Office of Management and Budget (OMB) under Section 3507 of the Paperwork Reduction Act of 1995 (PRA) on September 8, 2006. See *Notice of Office of Management and Budget Action* regarding OMB Control No. 3060-0798 from John F. Morrall III, Acting Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, dated September 8, 2006; see also *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, WT Docket No. 05-211, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 21 FCC Rcd 4753 (2006) ("*Designated Entity Second Report and Order*"), modified by *erratum*, 21 FCC Rcd 6622 (2006), clarified by *Order on Reconsideration*, 21 FCC Rcd 6703 (2006).

²³ See 47 C.F.R. §§ 1.2104(g), 1.2107(c).

G. Tribal Lands Bidding Credit

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

H. FCC Form 602

Pursuant to Sections 1.919 and 1.2107(f) of the Commission's rules, an applicant for a license in an auctionable service must have on file with the Commission a current FCC Form 602 reporting the applicant's complete and accurate ownership information.²⁴ Filing an FCC Form 602 is a separate requirement from, and in addition to, the ownership reporting requirements associated with filing FCC Form 601, Exhibit A, as set forth in **Attachment D**. For further information on filing the FCC Form 602 Ownership Disclosure Information through electronic filing, see instructions in Attachment D.

I. Maintaining Accuracy of Information

After the auction closes, applicants are required to make all changes in Commission's Universal Licensing System ("ULS") using FCC Form 601.²⁵ With the release of this Public Notice, applicants are no longer required to maintain the accuracy and completeness of information furnished on their FCC Form 175 applications and exhibits.

J. Application Processing and License Grant

After its initial review of the FCC Forms 601, the Commission will issue a public notice listing the applications that are acceptable for filing. Pursuant to Section 1.2108(b) of the Commission's rules, interested parties will have ten business days from release of that public notice to file petitions to deny any of these applications.²⁶ An applicant may file an opposition to any petition to deny within five business days after the time for filing petitions to deny has expired.²⁷ The petitioner may file a reply to such opposition within five business days after the time for filing oppositions has expired.²⁸ After the long-form review process, if the Commission determines that additional payments from applicants may be required, the Wireless Telecommunications Bureau will provide further instructions in a future public notice regarding any such additional payments. If the Commission determines that an applicant is otherwise qualified, that there are no substantial and material issues of fact raised in any petition to deny, and that no additional payments are due, it will issue a public notice announcing grant of the license to the applicant.

Frivolous Pleadings. The Commission reminds parties to our proceedings and their attorneys that the Commission intends to use its authority fully to deter the filing of frivolous pleadings.²⁹

²⁴ 47 C.F.R. §§ 1.919, 1.2107(f).

²⁵ See 47 C.F.R. § 1.65.

²⁶ 47 C.F.R. § 1.2108(b).

²⁷ 47 C.F.R. §§ 1.45(b), 1.2108(c).

²⁸ 47 C.F.R. §§ 1.45(c), 1.2108(c).

²⁹ See Commission Taking Tough Measures Against Frivolous Pleadings, *Public Notice*, 11 FCC Rcd 3030 (1996).

K. Anti-Collusion Rules

To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for licenses in any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements, unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii).³⁰ As explained more fully in the *Auction No. 66 Qualified Bidders Public Notice*,³¹ this prohibition began at the short-form application filing deadline and ends at the down payment deadline, which is 6:00 p.m. ET on October 4, 2006.³² The prohibition applies to all applicants in Auction No. 66 (unless they 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)) regardless of whether an applicant became a qualified bidder or actually participated in the bidding, and the prohibition continues for all applicants until the down payment deadline regardless of whether a winning bidder needs to make an additional payment by the down payment deadline. Applicants certified their compliance with Section 1.2105(c) when their FCC Form 175 short-form applications were signed.

L. Return of SecurID® Fobs

Bidders are encouraged to return their SecurID® fobs to the FCC for recycling by October 4, 2006. The Commission will send each bidder a pre-addressed, stamped envelope when it sends a copy of this Public Notice via overnight delivery. All bidders should use the envelope to return the SecurID® fobs now that the auction is closed. Please note that each SecurID® fob is tailored to a specific auction. Therefore, the SecurID® fobs issued for this auction will not work for future auctions.

* * * * *

³⁰ 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); 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, 15297-98 ¶¶ 7-8 (2000).

³¹ See Auction of Advanced Wireless Services Licenses; 168 Bidders Qualified to Participate in Auction No. 66; Information Disclosure Procedures Announced, *Public Notice*, 21 FCC Rcd 8585, 8591-93 (2006).

³² *Id.*

For further information, contact

News Media:

Chelsea Fallon at (202) 418-7991

Technical Support Hotline:

Technical Support Personnel at
(877) 480-3201, option nine; (202) 414-1250;
or (202) 414-1255 (text telephone (TTY))

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

Gail Glasser at (202) 418-0578

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

David Hu, Attorney, at (202) 418-0200
John Spencer, Attorney, at (202) 418-0200
Beth Fishel, Analyst, at (717) 338-2687

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

Lisa Stover, Project Manager, at (717) 338-2868
Scott Mackoul, Attorney, at (202) 418-0660

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).

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