

ATTACHMENT D

INSTRUCTIONS FOR COMPLETING FCC FORM 601 AND FCC FORM 602

This attachment contains instructions for the on-line filing process for filing FCC Form 601, Application for Wireless Telecommunications Bureau Radio Service Authorization, including Schedule B for Geographically Licensed Services (the “long-form application”), and the FCC Form 602, FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

Most of the information provided on the short-form application (FCC Form 175) will be pre-filled to the FCC Form 601 in the on-line filing process, such as:

- designated entity information, including revenue and bidding credit percentage information
- bidding agreement information, including the name of and parties to the agreements

Further, when a bidder submitted its short-form application, any existing FCC Form 602 in the Commission’s Universal Licensing System (“ULS”) was archived. Thus, it will be necessary for all bidders to file a new FCC Form 602. ULS will pre-fill the FCC Form 602 with the applicable ownership information from the FCC Form 175. Applicants should ensure that the current FCC Form 602 is complete and accurate. Instructions for filing the FCC Form 602 are provided in Section V of this attachment.

I. FCC FORM 601 GENERAL REQUIREMENTS

Applicants are strongly encouraged to use the format below to submit FCC Form 601 and exhibits to FCC Form 601 as required by the Commission’s rules. Following this format will help expedite processing of FCC Form 601 and minimize follow-up requests for missing or clarifying information.

Applicants bear full responsibility for submission of timely and complete FCC Form 601 applications. Applicants should read the instructions on the FCC Form 601 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 rules is included with their FCC Form 601 applications. Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application. *See* 47 C.F.R. § 1.65. **Incomplete or defective applications may be returned to the applicant.** *See* 47 C.F.R. § 1.934(a), (d), (f); *see also* 47 C.F.R. § 1.933(b).

Applicants must file FCC Form 601 electronically. An applicant that fails to submit the required FCC Form 601 application(s) before **6:00 p.m. Eastern Time (ET) on October 4, 2006**, and fails to establish good cause for any late-filed submissions, shall be deemed to have defaulted and will be subject to the default payments set forth in Section 1.2104(g) of the Commission’s rules. *See* 47 C.F.R. §§ 1.2104(g), 1.2107(c).

Number of Forms to be Filed. Applicants applying for multiple licenses may submit one FCC Form 601 (including all required schedules, attachments, and exhibits) if *all* filing requirements associated with the application are identical *except* for the market designator(s) and market names(s). However, an applicant seeking tribal lands bidding credits in one or more markets, but not all markets, is encouraged to submit two applications in order to separate those markets in which the applicant intends to apply for a tribal lands bidding credit from those markets in which the applicant is not seeking tribal lands bidding credit.

Furthermore, the recently adopted *CSEA/Part 1 Report and Order* modified the procedures by which a consortium that is a winning bidder applies for a license.¹ In particular, (a) each member or group of members of a winning consortium seeking separate licenses will be required to file a separate long-form application for its respective license(s) and, in the case of a license to be partitioned or disaggregated, the member or group filing the applicable long-form application shall provide the parties' partitioning or disaggregation agreement in its long-form application; (b) two or more consortium members seeking to be licensed together shall first form a legal business entity; and (c) any such entity must meet the applicable eligibility requirements in our rules for small business status.²

II. FILING FCC FORM 601 ELECTRONICALLY

Basic Guidelines for Filing FCC Form 601 On-line:

- Some of the data entry fields on the on-line application form may be pre-filled with information from the FCC Form 175.
- The on-line application consists of data entry fields as well as "yes or no" questions. You must respond to all of the questions on the application. If you respond "Yes" to a question, you may be required to file an attachment explaining the specific circumstances (see form for specific instructions).
- An Attachments link button is provided for uploading attachment files. You are responsible for filing all required attachments.
- Applications must be completed within the specific filing window of the auction, in this case before 6:00 p.m. Eastern Time (ET) on October 4, 2006.
- Prior to submitting an application, you may click the Reference Copy link (where available) to create a preview of your completed application.

Step-by-Step Instructions:

1. Access ULS through the Internet at <http://wireless.fcc.gov/uls>. Select the **Log In** button in the Online Filing section from this page.

Note: You may use the following browser software to register and file FCC Form 601 through ULS: Internet Explorer (v. 5.5 or later) and Netscape Communicator (v. 6.2). You can download Netscape Communicator free of charge from the Netscape download site at <http://browser.netscape.com/ns8/download/archive62x.jsp/>. Download Internet Explorer at <http://www.microsoft.com/windows/ie/downloads/default.asp>.

2. On the ULS License Manager Login page, enter the applicant's FCC Registration Number (FRN) and password. Click **Submit**. ULS will verify you have a valid FRN or otherwise prompt you to obtain an FRN.

¹ See Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, WT Docket No. 05-211, *Report and Order*, 21 FCC Rcd 891, 911-12 ¶¶ 51-52 (2006).

² 47 C.F.R. § 1.2107(g).

Note: You must login to ULS with the FRN used to identify the applicant on FCC Form 175.

For additional information on the FRN, *see* “All Universal Licensing System and Antenna Structure Registration Applicants Must Use Their FCC Registration Number(s), Effective December 3, 2001,” *Public Notice*, 16 FCC Rcd 18793 (2001), available at <http://wireless.fcc.gov/uls/releases/da012452.txt>. For assistance contact the FCC Support Center at (877) 480-3201, option four; TTY: (202) 414-1255. To provide quality service and ensure security, all telephone calls are recorded.

3. After you have entered the FRN and password correctly, you will see either the “My Applications” page or the “My Licenses” page displaying the applicant’s existing applications or licenses (if any) and related information. To apply for a new license, click the Apply for a New License link in the left-hand navigation menu.
4. On the Select Service page, choose the Auction Winner dropdown menu. Then select the following auction ID:

66 – AW – Advanced Wireless Services Licenses

Click **Continue**.

5. Supply the information requested by FCC Form 601 and the Commission’s rules. Complete the questions on the pages as they appear, following the onscreen prompts and instructions. Use the buttons at the bottom of each page to continue to the next page or go back to the previous page. Provide attachments as instructed by clicking the Attachments link at the top of the page. Attachment requirements are described in Section III of this document. Be sure to use the standard attachment types and file descriptions set forth herein.
6. If you plan to file a request for a waiver or exception to the Commission’s rules, select “Yes” for the appropriate question on the Application Information page and enter the number of rule waivers being requested. You will also be required to upload an exhibit which should include citations to the specific rule sections and the circumstances for justifying the waiver request(s). Refer to the guidelines below for Exhibit F: Waiver Requests.
7. On the Markets page, the system pre-fills the Markets Summary table with data for the license(s) this applicant has won in the selected auction. The “Include in Application” column contains a checkbox for each license, where a check indicates that you want to include the license in this application. Initially, all checkboxes are selected. To unselect a license, clear its checkbox. The checkbox lets you apply for the winning licenses in stages, rather than all at once. This is important if the applicant intends to seek a tribal lands bidding credit in some but not all markets. Click **Continue**.
8. The next page must be completed by Applicants seeking Tribal Lands Bidding Credits. If you are applying for markets in which you intend to seek tribal lands bidding credits, see Section IV of this Attachment.
9. Agreement information that was provided on the FCC Form 175 will be pre-filled into the FCC Form 601. Applicants can edit this pre-filled agreement information, including the agreement name, agreement type and parties to the agreement. You can also delete and add agreements. In addition, if the applicant has entered into, intends to enter into, or is in the process of negotiating any agreements that could affect its designated entity status, you must answer the appropriate

question “Yes” on the Agreement Information page, and list the agreement name, agreement type, and parties to the agreement. Further, applicants must summarize these agreements, and provide a copy of each such agreement as part of Exhibit D. Refer to the guidelines below for Exhibit D: Agreements & Other Instruments. Note: ULS requires a valid FRN for each of the Parties to an Agreement that are added, or copied from the FCC Form 175, to the FCC Form 601 filing.

10. For applicants seeking a bidding credit, revenue information for the Applicant, Disclosable Interest Holder(s) and Affiliate(s) will be pre-filled from the FCC Form 175 into the FCC Form 601. Applicants can edit this pre-filled revenue information. If there have been changes to the Applicant, Disclosable Interest Holder(s) and Affiliate(s) revenue information or additional information needs to be added, you must answer the appropriate question “Yes” on the Revenue and Asset Information for Applicant page. You are also required to attach an exhibit with the additional information and a summarization of the revenue changes from the figures submitted with the FCC Form 175. Refer to the guidelines below for Exhibit C: Designated Entities. The “Yes” answer will enable the revenue data fields and allow you to edit or add the revenue information for the Applicant. Continue to the Revenue and Asset Information for Designated Interest Holder(s) page. You can edit the Disclosable Interest Holder name, FRN, and revenue information copied from the FCC Form 175. You can also delete and add Disclosable Interest Holders and their revenue information. Continue to the Revenue and Asset Information for Affiliate(s) page. You can edit the Affiliate name, FRN, and revenue information copied from the FCC Form 175. You can also delete and add Affiliates and their revenue information. Note: ULS requires a valid FRN for each of the Disclosable Interest Holders and Affiliates added, or copied from the FCC Form 175, to the FCC Form 601 filing.
11. Information required by Section 1.2110(j) of the Commission’s rules regarding Attributable Material Relationships must be included in Exhibit C.³ Refer to the guidelines below for Exhibit C: Designated Entities.
12. Continue completing the questions on the pages as they appear, following the onscreen prompts and instructions until you reach the Summary page. Use the view and edit capabilities to review your application to confirm that it is complete and accurate. Correct information as necessary. Once you are confident that the application is ready for certification and submission, click on the **Continue to Certify** button.
13. The Certification page provides General Certification Statements. By "signing" this form, the applicant certifies that the statements listed in this section are true, complete, correct, and made in good faith. To submit the application to the FCC, click the **Submit Application** button.
14. You will receive a Confirmation page when you press the **Submit Application** button. Note the file number for your records. You may print the Confirmation page by choosing the Print option from the File menu of your Web browser. You may also choose to print a copy of the complete

³ 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).

application you have just submitted by selecting the Reference Copy link. You may use the **Log Out** link at the top left of the page to exit ULS online filing.

Updating an Application

You may access your application to make changes until the October 4, 2006, filing deadline:

- If you quit your application at any time prior to submitting it, it will be saved in ULS. To continue working on a saved application, login to ULS License Manager. Choose the My Applications link from the menu on the left side of the page and click on the Saved link. Click the link next to your saved application. On the next page, “Application At A Glance,” choose the **Continue** link under the “Work on This Application” menu. Saved applications for an auctionable service must be completed and submitted within the 10-day filing window. Any application that is not submitted by the deadline will not be reviewed by the Commission.
- Once you click the **Submit Application** button, ULS will assign a file number to the application. To make changes to a submitted application, log in to ULS License Manager. Choose the My Applications link from the left side of the page. Then choose the Submitted Applications link. Click on the file number of your application, and choose the Update link from the “Work on This Application” menu on the right side of the page. You must click the **Submit Application** button prior to the close of the 10-day filing window.

Note: To change any information on your application **after** the 10-day filing window has closed, log in to ULS License Manager with the applicant’s FRN and Password. Choose the My Application link from the left side of the page. Then click Pending applications. Click on the file number of your application, and choose the Update link from the “Work on This Application” menu on the right side of the page.

Important: Changes made on an application after the following window has closed constitute an amendment(s) to the application in ULS.

Commission rules contain limitations on the filing of major amendments after the October 4, 2006, deadline that may affect the applicant's legal rights.⁴ Acceptance of an amendment by ULS does not indicate that the amendment is allowed under the Commission’s rules. Applicants are advised to consult Commission’s rules in this regard prior to filing an amendment. Once the Commission has granted a request for a license, you may request a modification.

Technical Support

For technical assistance with filing the FCC Form 601, contact the ULS Technical Support Hotline at (877) 480-3201, option 2, or (717) 338-2824 (TTY). The ULS Technical Support Hotline is available Monday through Friday from 8:00 a.m. to 7:00 p.m. ET. There are no weekend hours, and the hotline is closed on all Federal holidays. To provide quality service and ensure security, all telephone calls are recorded.

III. ORGANIZATION OF APPLICATION EXHIBITS

FCC Form 601- and Rule-Related Exhibits. Any exhibits to be attached to an application in response to a question on the Main Form or Schedule B of FCC Form 601 or as specified in the Commission’s

⁴ See 47 C.F.R. §§ 1.927, 1.2107(c).

rules should be identified as specified in the instructions to the FCC Form 601. Applicants should select the Attachments link provided within the electronic filing software to connect to the Attachments page. Select the appropriate attachment type from the pull-down menu, enter the correct attachment description (listed below) in the text box provided, browse for your file, and click on the **Add Attachment** button. The electronic filing software will accept many different types of computer files. For a full list of acceptable file formats, see <http://esupport.fcc.gov/attachments.htm#types>. Do not add password protection to attached files.

Provide exhibit attachments in ULS as applicable. Any exhibits to be attached to an application as a result of our rule requirements should be identified as follows:

Title

Exhibit A: Ownership

Exhibit B: Foreign Ownership

Exhibit C: Designated Entities

Exhibit D: Agreements & Other Instruments

Exhibit E: Confidentiality Requests

Exhibit F: Waiver Requests

Exhibit G: Miscellaneous Information

Exhibit X: Tribal Government Certification⁵

Exhibit Y: Tribal Lands Waiver Requests⁶

Exhibit Z: Application Certification⁷

As specified in the instructions to the FCC Form 601, each page of each exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit.

EXHIBIT A: OWNERSHIP INFORMATION

Section 1.2112 of the Commission's rules requires that each applicant for a license shall disclose fully the real party- or parties-in-interest. *See* 47 C.F.R. § 1.2112. This requirement may be fulfilled by providing an attachment referencing the file number, date, and name of filer of the appropriate FCC Form 602 application. For information regarding the filing of the FCC Form 602, *see* Section V of this attachment. To provide this information, applicants should upload the file, select Attachment Type "Ownership," and enter "**Exhibit A: Ownership**" in the Description field on the Attachments page.

Although ownership information can be provided by referencing the FCC Form 602, applicants should confirm that their FCC Form 602 accurately reflects all information discussed below and as required under Section 1.2112 of the Commission's rules.

⁵ Applicants applying for markets where they are seeking a tribal lands bidding credit must attach all tribal government certifications, applicant certifications, and waiver exhibits, as applicable, within 180 days of filing their long-form application. *See* discussion in Section IV. Applicants do not need to include these attachments in applications in which tribal lands bidding credits are not being sought. *See* Extending Wireless Telecommunications Services to Tribal Lands, WT Docket No. 99-266, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 4775, 4778-79 ¶ 10 (2003) ("*Tribal Lands Second Report and Order*").

⁶ *See id.*

⁷ *See id.*

Direct Ownership. An applicant must provide information regarding its direct ownership as follows:

- *General Rule:* The applicant must provide the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held. *See* 47 C.F.R. § 1.2112(a)(2).
- If the applicant is a general partnership, provide the name, address, and citizenship of each partner, and the share or interest participation in the partnership. *See* 47 C.F.R. § 1.2112(a)(4).
- If the applicant is a limited partnership, provide the name, address, and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to either the percentage of equity paid in or the percentage of distribution of profits and losses). *See* 47 C.F.R. § 1.2112(a)(3).
- If the applicant is a limited liability company, provide the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater. *See* 47 C.F.R. § 1.2112(a)(5).

Indirect Ownership. Applicants must identify all parties holding a 10 percent or greater indirect ownership interest in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain. If the ownership percentage for an interest in any link in the chain exceeds fifty percent or represents actual control, it shall be treated and reported as if it were a one hundred percent interest. *See* 47 C.F.R. § 1.2112(a)(6).

Other Disclosable Interests and Entities. Applicants must list any Commission-licensed entity or applicant for a Commission license in which the applicant or any of the parties identified in sections 1.2112(a)(1)-(5) of the Commission’s rules owns 10 percent or more ownership interest, whether voting or nonvoting, common or preferred. This list must include a description of each such entity’s principal business and a description of each entity’s relationship to the applicant. *See* 47 C.F.R. § 1.2112(a)(7).

Complex Ownership Situations. To facilitate the long-form review process, applicants whose ownership structures involve multiple layers are encouraged to provide a narrative and diagram describing the relationships of the various entities.

EXHIBIT B: FOREIGN OWNERSHIP

If the applicant has responded “Yes” to Question 48a and “No” to Question 48b on the FCC Form 601, it must attach to the application a date-stamped copy of a request for a foreign ownership ruling pursuant to Section 310(b)(4) of the Communications Act. If the applicant has responded “Yes” to Question 48a and “Yes” to Question 48b on the FCC Form 601, it must attach to the application an exhibit that identifies the citation(s) of the applicable declaratory ruling(s) by DA/FCC number or the FCC Record citation, if available, release date, and any other identifying information. To provide this information, the applicant should select Attachment Type “Ownership” and enter “**Exhibit B: Foreign Ownership**” in the Description field on the Attachments page. For every direct or indirect foreign owner, applicant should provide the following information:

- *Item (1) Percentage of Interest:* Identify each foreign owner’s percentage of ownership (direct and indirect) in the applicant.

- *Item (2) Country of Origin and Address:* List each foreign owner's country of origin and principal place of business.
- *Item (3) Public Interest Statement:* Demonstrate how allowing the applicant to hold the requested license is consistent with the Commission's policies pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended. In the *Foreign Participation Order*,⁸ the Commission stated that there is a presumption that indirect foreign ownership of common carrier radio licenses by entities whose home markets are World Trade Organization (WTO) Members is in the public interest. If more than twenty-five percent of the ownership of an entity that controls a common carrier radio license is attributable to parties whose home markets are non-WTO member countries, the Commission will evaluate whether those markets offer effective competitive opportunities to U.S. investors.⁹
- *Item (4) Petitions for Declaratory Ruling:* As explained in the Commission's *Foreign Participation Order*, licensees must seek the Commission's prior approval before accepting indirect foreign ownership that causes them to exceed Section 310(b)(4)'s twenty-five percent benchmark.¹⁰ In keeping with this pre-approval process, auction applicants are required to certify in their FCC Form 175 applications either that they are in compliance with the foreign ownership requirements of Section 310 or that they have filed a request for relief from those requirements that is pending with the Commission.¹¹ Similarly, where foreign ownership is at issue, applicants must indicate in their FCC Form 601 applications that they either have received a declaratory ruling that grants them permission to exceed the statutory benchmark of Section 310(b)(4) or that they have a request currently pending at the Commission. Applicants are advised that petitions for declaratory ruling to exceed the Section 310(b)(4) benchmark must be granted before any license for which the applicant is a high bidder may be granted.

Petitions for a declaratory ruling to exceed the Section 310(b)(4) twenty-five-percent statutory benchmark should be addressed to the Secretary, with a copy to the Telecommunications Division of the International Bureau, and must be filed in paper form. There is no fee associated with such a filing. Applicants should be aware that, under the relevant precedent, including the Commission's *Foreign Participation Order*, streamlined processing is possible for petitions involving investment from WTO Members that do not raise any other potentially complex foreign ownership issues. The Commission may conclude that a particular petition of this type is not eligible for streamlined processing. If more than twenty-five percent of the ownership of an entity that controls a common carrier radio license is attributable to parties whose home markets are non-WTO Members, such petitions are not eligible for streamlined processing, and these petitioners should contact the Telecommunications Division of the International Bureau to discuss processing of their petitions. Inquiries regarding compliance with Section 310 of the Communications Act and the filing and processing of petitions for declaratory ruling should be directed to David Krech, Assistant Division Chief of the Policy Division, International Bureau, at (202) 418-1460.

⁸ Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket No. 97-142, Market Entry and Regulation of Foreign-Affiliated Entities, IB Docket No. 95-22, *Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891 (1997) ("*Foreign Participation Order*"), *Order on Reconsideration*, 15 FCC Rcd 18158 (2000).

⁹ See *Foreign Participation Order*, 12 FCC Rcd at 23891, 23935-42, 23946, ¶¶ 97-118, 131 (1997).

¹⁰ *Id.*

¹¹ See 47 C.F.R. § 1.2105(a)(2)(v), (vi).

EXHIBIT C: DESIGNATED ENTITIES

As noted previously, revenue information for the Applicant, Disclosable Interest Holder(s) and Affiliate(s) will be pre-filled from the FCC Form 175 into the FCC Form 601. Applicants, however, must review the pre-filled designated entity information and confirm its accuracy by applying the guidelines provided below. If necessary, applicants can update the pre-filled revenue information in their FCC Form 601. Any other designated entity information must be provided by uploading a file, selecting Attachment Type “Ownership” and entering “**Exhibit C: Designated Entities**” in the Description field on the Attachments page. For example, applicants can use Exhibit C to provide information for entity(ies) with which the applicant has an attributable material relationship as required by our rules. In addition, applicants can use Exhibit C to explain updates to the pre-filled information from the FCC Form 175.

Pursuant to Section 1.2110(f)(1) of the Commission’s rules, the Commission may award bidding credits (*i.e.*, payment discounts) to eligible designated entities. Section 27.502 of the Commission’s rules specifies the following designated entities as eligible for bidding credits in the Advanced Wireless Services auction (Auction No. 66): a very small business, a small business, a consortium of very small businesses, and a consortium of small businesses.

- **Very Small Businesses under Section 27.502(b):** A very small business is an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding **\$15 million** for the preceding three years. Very small businesses are eligible for bidding credits of **twenty-five percent (25%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(ii), 27.502(b).
- **Small Businesses under Section 27.502(a):** A small business is an entity that, together with its affiliates and controlling interests, has had average gross revenues that exceed \$15 million but do not exceed **\$40 million** for the preceding three years. Small businesses are eligible for bidding credits of **fifteen percent (15%)** to lower the cost of their winning bids. *See* 47 C.F.R. §§ 1.2110(f)(2)(iii), 27.502(a).

Gross Revenues Test For Very Small Businesses and Small Businesses. For purposes of determining whether an applicant is eligible for status as a very small business or a small business, the gross revenues of the applicant, its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship shall be considered on a cumulative basis and aggregated. *See* 47 C.F.R. §§ 1.2110(b)(1), 1.2112(b)(2). In accordance with Section 1.2110(n) of the Commission’s rules, 47 C.F.R. § 1.2110(n), the applicant must provide the gross revenues for the most recently completed three calendar or fiscal years preceding the filing of the applicant’s FCC Form 175, separately and in the aggregate for the applicant, each of its affiliates, each of its controlling interests, each of the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.¹² *See* 47 C.F.R. § 1.2112(b)(2)(v); *see also* 47 C.F.R. § 1.2110(b)(1)(i). Gross revenues for purposes of determining eligibility are defined in 47 C.F.R. § 1.2110(n).

For a Consortium of Very Small Businesses and a Consortium of Small Businesses. Applicants that applied as a consortium of very small businesses or a consortium of small businesses as described in Section 1.2110(b)(3)(i) of the Commission’s rules must compute and indicate gross revenues as outlined above for *each* very small business or small business in the consortium. That is, each business entity comprising the very small business or small business consortium must qualify and show gross revenues separately. The average gross revenues of the individual very small businesses

¹² *See supra* note 3.

or small businesses in the consortium shall not be aggregated. *See* 47 C.F.R. § 1.2110(b)(3)(i), *but see* 1.2110(b)(3)(iii).

Controlling Interests and Affiliates. All controlling interests and affiliates, as defined by the Commission’s rules, must be included in the gross revenue calculations discussed above. *See* 47 C.F.R. § 1.2110(c)(2), (c)(5).

Minority-Owned and Women-Owned Business and Rural Telephone Companies. The Commission is interested in the status of applicants as minority-owned and women-owned businesses and rural telephone companies for statistical purposes, even if the applicant is ineligible for bidding credits. *See* 47 C.F.R. § 1.2110(c)(3), (4). This information is collected in ULS and does not need to be included in an attachment.

EXHIBIT D: AGREEMENTS & OTHER INSTRUMENTS

Bidding Agreements. Applicants must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint ventures, partnerships or other agreements or arrangements entered into relating to the competitive bidding process prior to the time the bidding was completed. *See* 47 C.F.R. § 1.2107(d). Note: A list of the agreements disclosed on the FCC Form 175 will be pre-filled on the Form 601, but should be updated if necessary. Any other additional information should be provided by uploading a file, selecting Attachment Type “Other” and entering “**Exhibit D: Agreements & Other Instruments**” in the Description field on the Attachments page.

Other Agreements. To comply with the requirements of Sections 1.2110(j) and 1.2112(b)(2)(iii)-(iv) of the Commission’s rules, all agreements must be listed on the FCC Form 601 and applicants must provide a summary of these agreements.¹³ Applicants must upload the information in a file, select Attachment Type “Other” and enter “**Exhibit D: Agreements & Other Instruments**” in the Description field on the Attachments page. Copies of agreements required by Sections 1.2110(j) and 1.2112(b)(2)(iii)-(iv) of the Commission’s rules must be included in Exhibit D.¹⁴ Applicants with a significant number of reportable agreements or significantly lengthy agreements can elect to submit a separate Exhibit D attachment for the list and summary of agreements and for each agreement itself. For those applicants with significant upload requirements, submitting separate agreements would ease the electronic filing process on ULS. For example, an applicant can submit one attachment for the list and summary of agreements and upload it with the caption “Exhibit D: List and Summary of Agreements” and then submit an attachment for each agreement, *e.g.*, “Exhibit D: LLC Agreement”, “Exhibit D: Lease Agreement”. Applicants may elect to seek confidentiality for the agreements pursuant to section 0.459 of the Commission’s rules. *See* 47 C.F.R. § 0.459; *see also* discussion of confidentiality requests under “Confidentiality Requests” below.

EXHIBIT E: CONFIDENTIALITY REQUESTS

Applicants should be aware that all information required by the Commission’s rules is necessary to determine the applicants’ qualifications to be a Commission licensee and, as such, will be available for public inspection. Required proprietary information may be redacted, and confidentiality may be sought pursuant to Section 0.459 of the Commission’s rules. *See* 47 C.F.R. § 0.459. Applicants requesting confidential treatment for any information required as a condition to participate in the auction must follow

¹³ *Id.*

¹⁴ *Id.*

the procedures set out in Section 0.459 of the Commission's rules. Because the required information bears on an applicant's qualifications, the Commission envisions that confidentiality requests will not be granted routinely.

If an applicant has sought confidential treatment of any information, it must attach a statement explaining the request and referencing the particular information for which confidential treatment has been requested. To provide this information, applicants should upload this statement as a file, select Attachment Type "Confidentiality" and enter "**Exhibit E: Confidentiality Requests**" in the Description field on the Attachments page.

Note: Applicants must select Attachment Type "Confidentiality" for the particular exhibit for which they are requesting confidential treatment. Otherwise, the attachment will be available for public inspection.

EXHIBIT F: WAIVER REQUESTS

Note: This part does not apply to tribal lands waiver requests. For tribal lands waiver requests, see Section IV, "Exhibit Y: Tribal Lands Waiver Requests."

In the event an applicant wishes to file a request for waiver of a Commission rule, *see* 47 C.F.R. § 1.925, the request should be filed with the corresponding application. Applicants should upload this waiver request as a file, select Attachment Type "Waiver" and enter "**Exhibit F: Waiver Requests**" in the Description field on the Attachments page.

Waiver requests filed after the submission of the FCC Form 601 may result in a delay of the processing of the application. If a request for waiver is filed separately from the FCC Form 601, such request must refer to the corresponding application, including its file number.

EXHIBIT G: MISCELLANEOUS INFORMATION

In the event that a winning bidder wishes to provide any additional information that does not fall within any of the other exhibits, these documents or files should be submitted by selecting Attachment Type "Other" and entering "**Exhibit G: Miscellaneous Information**" in the Description field on the Attachments page.

IV. INSTRUCTIONS FOR APPLICANTS SEEKING TRIBAL LANDS BIDDING CREDITS

Filing the Long-Form Application. Applicants interested in receiving a tribal lands bidding credit must apply to do so when initially filing the long-form application in ULS (see Section II, "Filing FCC Form 601 Electronically").

1. Select "Yes" on the Tribal Lands Bidding Credits page.
2. On the Seek Tribal Lands Bidding Credits page, indicate each channel block within each market for which credit is sought by selecting the appropriate box. *See* 47 C.F.R. §§ 1.2107(e), 1.2110(f)(3).

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 by the 6:00 p.m. ET October 19, 2006, deadline (or no later than 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).¹⁵ 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 Form 159.

For a list of the tribal lands in each Cellular Market Area (CMA), Economic Area (EA), and Regional Economic Area Grouping (REAG), go to the Auction Website at <http://wireless.fcc.gov/auctions> and click on "Tribal Land Credits," then click on "Cross References." Additional information regarding Tribal Lands Bidding Credits is available at the above referenced website. For additional information on the tribal lands bidding credit, applicants should review the Commission's rulemaking proceeding regarding tribal lands bidding credits and related public notices.¹⁶

Applicants indicating that they intend to serve a qualifying tribal land in any market(s) within the application will have an additional 180 days after the long-form application deadline within which to secure the necessary certifications from tribal authorities. *See* 47 C.F.R. § 1.2110(f)(3)(ii). Within this 180-day period, applicants must amend their long-form application to (1) provide the requisite tribal government certifications and (2) provide the applicant certification that it will, among other things, comply with the construction requirements set forth in 47 C.F.R. § 1.2110(f)(3)(vi). An applicant may provide the certifications when initially filing the long-form application or, after the filing window, an applicant may re-enter ULS and update the long-form application to provide the certifications. (See the instructions, "Updating the Tribal Lands Information through Electronic Filing" below.) Applicants seeking a tribal lands bidding credit for some, but not all, markets in which they were the winning bidder are encouraged to submit two applications. One application will include markets in which the applicant intends to apply for a tribal lands bidding credit. The other application will include those markets in which the applicant is not seeking a tribal lands bidding credit.

Any applicant that intends to apply for tribal lands bidding credits must do so by the filing deadline for the long-form applications (i.e., by October 4, 2006). Applicants will not be permitted to amend their applications after the filing deadline to indicate that they intend to seek a tribal lands bidding credit for a market. However, it is possible for applicants to update an application to indicate that they no longer intend to seek tribal lands bidding credits in a particular market. Applicants that elect to seek the tribal lands bidding credit when they initially submit the long-form application, but then subsequently decide not to seek the credit, should update their applications to delete the request for the tribal lands bidding credit.

¹⁵ 47 C.F.R. § 1.2109(a).

¹⁶ *See* In the Matter of Extending Wireless Telecommunications Services to Tribal Lands, WT Docket No. 99-266, *Third Report and Order*, 19 FCC Rcd 17652 (2004) ("*Tribal Lands Third Report and Order*"); Extending Wireless Telecommunications Services to Tribal Lands, WT Docket No. 99-266, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 4775 (2003) ("*Tribal Lands Second Report and Order*"); Extending Wireless Telecommunications Services to Tribal Lands, WT Docket No. 99-266, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 11794 (2000); 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 24838 (2000) ("*Tribal Lands Public Notice*"); 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).

Updating the Tribal Lands Information through Electronic Filing. To update a long-form application during the filing window (before it has been submitted to the FCC), see “Updating an Application” in Section II above. To update a Form 601 application for tribal lands certification after it has been officially received by the Commission (within the 180-day period), the applicant must re-enter ULS. *See* 47 C.F.R. § 1.2110(f)(3)(ii).

1. Access ULS through the Internet at <http://wireless.fcc.gov/uls>. Select the **Online Filing** button from this page.
2. At the Log In page, enter the applicant’s FRN and password. Click **Submit**.
3. Choose the My Applications link from the left side of the page. Then choose the Pending applications link.
4. Click on the file number of your application to view the Application At a Glance page. Click the Update link from the Work on This Application menu on the right side of the page to access Form 601.
5. Proceed through the application pages using the **Continue** button at the bottom of each page until you reach the Tribal Lands Secured Certifications page. Answer “Yes” to the question on this page and provide an attachment using the Attachments link at the top of the page. For each market where a tribal lands bidding credit is being sought, the applicant must attach a signed, tribal government certification from each of the federally recognized tribal governments and an applicant certification. *See* “**Exhibit X: Tribal Government Certification**” and “**Exhibit Z: Applicant Certification**.” Click **Continue**.
6. For each market contained in the application where you indicated an intent to serve tribal lands, a Select Tribal Lands page will be presented providing the names of the federally recognized tribal lands within the market and the square kilometers of the tribal land within the market. Select the checkbox for each tribal land you want to include in your request and for which you have the tribal government certifications, and then click **Calculate** to see the credit amount you may be granted. To add a new federally-recognized tribal land to this market, select **Add**.
7. The Tribal Lands Bidding Credit Summary page will display the calculated credit and any additional credit requested for each channel block. Click **Continue**.
8. If you are requesting a tribal lands bidding credit in more than one market, repeat steps 6 and 7 above for each market.
9. Proceed through the remainder of the application pages using the **Continue** button at the bottom of each page to the **Certification** page. Certify your application and select **Submit Application**. You will receive a confirmation page. Note the file number for your records. You may use the link at the top left of the page to logout.

ULS will calculate the bidding credit amount for each market automatically, according to the size (in square kilometers) of the tribal territory within the market, and in compliance with the bidding credit limit. *See* 47 C.F.R. § 1.2110(f)(3)(iii), (iv).¹⁷ If multiple spectrum blocks are won in the same market,

¹⁷ Note that the bidding credit formula and limits were recently revised. *See, generally, Tribal Lands Third Report and Order*, 19 FCC Rcd 17652 (2004).

the winning bid amounts for the spectrum blocks serving tribal lands will be aggregated and the bidding credit limit will be applied against the aggregated amount.¹⁸

If the applicant is seeking a bidding credit in excess of the amount calculated pursuant to Section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to Section 1.925 of the Commission's Rules. *See* 47 C.F.R. § 1.925. Each waiver request will be evaluated on a case-by-case basis. *See* “**Exhibit Y: Tribal Lands Waiver Requests.**”

EXHIBIT X: TRIBAL GOVERNMENT CERTIFICATION

Within the 180-day period following the long-form filing deadline, the applicant must amend its long-form application to provide the required tribal government certifications for each tribal land identified in the application. *See* 47 C.F.R. § 1.2110(f)(3)(ii)(A). The tribal government certifications **must be signed** by an officer, allotment owner(s), or corporate officer of the tribal land, Indian allotment, or Alaska Native land, respectively, and uploaded as an Adobe PDF file. Each tribal government certification should be attached separately by selecting Attachment Type “Tribal Government Certification” and entering “**Exhibit X: Tribal Government Certification**” in the Description Field on the Attachments page. In addition, the Description Field should indicate the market and tribal lands to which the certification pertains (e.g., “Exhibit X: Tribal Government Certification (AW-REA 003-F Great Lakes, Standing Rock Reservation)”).

A tribal government certification must state that:

1. The tribal area to be served by the winning bidder is a federally-recognized Indian tribe's reservation, Pueblo, Colony, Alaska Native region, or Indian allotment, and has a wireline telephone penetration rate at or below eighty-five (85) percent;¹⁹
2. The tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide service on the qualifying tribal land; and
3. The tribal government will permit the applicant to site facilities and provide service on its tribal land.

See 47 C.F.R. § 1.2110(f)(3)(ii)(A)(1)-(3).

EXHIBIT Y: TRIBAL LANDS WAIVER REQUESTS

Request for an additional bidding credit: If the applicant is seeking a credit in excess of the amount calculated according to Section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to Section 1.925 of the Commission's rules. *See* 47 C.F.R. § 1.925. These waiver requests are subject to the percentage cap on tribal lands bidding credits, and waivers will not be granted in excess of the applicable

¹⁸ *See Tribal Lands Public Notice*, 15 FCC Rcd at 24839.

¹⁹ *See Tribal Lands Third Report and Order*, 19 FCC Rcd 17652 (2004) (raising the wireline penetration rate from 70% to 85% or less).

cap. This waiver request must demonstrate that the infrastructure costs exceed the amount of the standard bidding credit as calculated by ULS. The applicant will need to supply a detailed showing of the projected infrastructure costs, including a certification by an independent auditor that the estimated costs are reasonable. Each tribal land waiver request should be attached separately by selecting Attachment Type “Tribal Lands Waiver Requests” and entering “**Exhibit Y: Tribal Lands Waiver Requests**” in the Description Field on the Attachments page. In addition, the Description Field should indicate the market and tribal lands to which the waiver request pertains (e.g., Exhibit Y: Tribal Lands Waiver Requests (“AW-REA 003-F Great Lakes, Standing Rock Reservation”)).

EXHIBIT Z: APPLICANT CERTIFICATION

An applicant seeking a tribal lands bidding credit must attach a certification stating that it will comply with the buildout requirements set forth in Section 1.2110(f)(3)(vi) of the Commission’s rules and that it will consult with the tribal government regarding the siting of facilities and deployment of service on the tribal land. *See* 47 C.F.R. § 1.2110(f)(3)(ii)(B).

V. FCC FORM 602 – OWNERSHIP DISCLOSURE INFORMATION

A current FCC Form 602 must be on file with the Commission by the October 4, 2006, deadline for filing the FCC Form 601. *See* 47 C.F.R. §§ 1.919, 1.2107(f). The current Ownership Disclosure Filing was archived in ULS with the applicant’s submission of the FCC Form 175. You must file a new FCC Form 602. ULS will pre-fill the FCC Form 602 with the applicable ownership information from the FCC Form 175. The applicant should confirm that the Ownership Disclosure information that is copied into the FCC Form 602 is complete and accurate. *See* 47 C.F.R. §§ 1.919, 1.2112. Applicants are reminded that any updates to FCC Form 602 must be filed electronically.²⁰

File FCC Form 602 Ownership Information through Electronic Filing

1. Access the ULS homepage, <http://wireless.fcc.gov/uls>, and click the **Log In** button in the Online Filing section.
2. On the next page, enter the FRN and password of the filer and select **Continue**. The ULS Online Systems page will appear. **Note:** If the Applicant listed on FCC Form 601 is listed as the filer on the Ownership filing, provide the same FRN as provided on FCC Form 601.
3. Click the My Ownership Disclosure Information link in the left-hand Task menu.
4. On the My Ownership Disclosure Filing page, you will see the Ownership Disclosure Filing created with the submission of the FCC Form 175. Select the Filer Name link to update any of the ownership information and file the FCC Form 602.
5. On the Ownership Disclosure Filing page that appears, select the Update Filing link in the Work on this Filing menu. The FCC Form 602 will pre-fill with the applicable ownership information from the FCC Form 175 filing.

²⁰ Beginning December 10, 2002, electronic filing of FCC Form 602 via ULS became mandatory. *See* Wireless Telecommunications Bureau Reminds Filers of Effective Date for Mandatory Electronic Filing of FCC Form 602, *Public Notice*, 17 FCC Rcd 22934 (2002). For more information on FCC Form 602, *see* Wireless Telecommunications Bureau Announces Revised Version of FCC Form 602 is Now Available, *Public Notice*, 17 FCC Rcd 16197 (2002); Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602, *Public Notice*, 14 FCC Rcd 8261 (1999).

6. The Work on this Filing menu will display several update options. This is your toolbox for performing action on your ownership filing. Use the links as needed, to:
 - View and Edit Filer Information
 - Upload Ownership Disclosure Information
 - Add a Disclosable Interest Holder of the Filer (corresponds to questions 1-9 on Schedule A)
 - Add an FCC Regulated Business of the Filer (corresponds to question 5 on the Main Form)
 - Add an FCC Regulated Business of a Disclosable Interest Holder (corresponds to question 10 on Schedule A)
 - Change the Filing Type
 - Certify the Filing
 - Change Cellular Cross Interest

7. Update necessary information, following the onscreen instructions and prompts. To complete your changes, select the **Certify Filing** button, which appears at the bottom of the appropriate Ownership Filing pages. When the FCC Form 602 filing is submitted successfully, a confirmation page will display the filer's FRN, the date of submission and a file number for this filing.

ULS Ownership Filing displays this Confirmation page for your records. We strongly recommend you print a copy of this page. You may print the Confirmation page by choosing the Print option from the File menu of your Web browser. You may also choose to print a copy of the complete FCC Form 602 application you have just submitted by selecting the Reference Copy link. Your FCC Form 602 Ownership filing has been given a file number. Any future reference to this application must be made using the file number.

Note: For additional instructions regarding electronic filing of FCC Form 602 ownership information, use the **Help** button, located on the top right of any page within Ownership Filing.