



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

DA 06-588
March 20, 2006

AUCTION OF 800 MHz AIR-GROUND RADIOTELEPHONE SERVICE LICENSES SCHEDULED FOR MAY 10, 2006

Additional Default Payment of 20 Percent Will Apply to Auction No. 65

Report No. AUC-06-65-D (Auction No. 65)

By this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) announces the additional payment component of default payments for the upcoming auction of 800 MHz Air-Ground Radiotelephone Service licenses scheduled for May 10, 2006 (Auction No. 65).

Section 1.2104(g)(2) of the Commission’s rules provides that if, after the close of an auction, 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), the bidder is liable for a default payment.¹ This payment consists of a deficiency payment, equal to the difference between the amount of the bidder’s bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter’s bid or of the subsequent winning bid, whichever is less. In the *CSEA/Part 1 Report and Order*, released on January 24, 2006, the Commission modified Section 1.2104(g)(2) by increasing the limit on the additional default payment for non-combinatorial auctions from 3 percent to 20 percent.² The Commission further indicated that prior to each non-combinatorial auction it will establish an additional default payment of 3 to 20 percent for that auction and that the specific level of this payment in each case will be based on the nature of the service and the inventory of the licenses being offered.³

In the *Auction No. 65 Second Comment Public Notice*, the Bureau proposed an additional default payment of 20 percent for Auction No. 65.⁴ We received no comments on this proposal. In Auction No. 65,

¹ 47 C.F.R. § 1.2104(g)(2). *See also* 47 C.F.R. § 1.2109.

² 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*, FCC 06-4 (rel. January 24, 2006), ¶¶ 30-32 (“*CSEA/Part 1 Report and Order*”).

³ *Id.* at ¶ 31. The default payment rule for combinatorial auctions, which is now also included in 47 C.F.R. § 1.2104(g)(2), is not relevant to Auction No. 65.

⁴ “Auction of 800 MHz Air-Ground Radiotelephone Service Licenses Scheduled for May 10, 2006; Comment Sought on Additional Payment Component of Default Payments for Auction No. 65,” Public Notice, DA 06-376 (rel. February 21, 2006), at 2 (“*Auction No. 65 Second Comment Public Notice*”).

licenses in three band plans will be available, but the only licenses that will be awarded will be those that comprise the band plan that receives the highest aggregate bid.⁵ A bid on a single license therefore may determine not only the winner of that license but also the winning band plan, and thus affect the ability of other bidders to win other licenses in the auction. By contrast, a bid on a license in an auction using the Commission's standard simultaneous multiple round auction format ("SMR") may determine only the winner of that license. We continue to believe, as we explained in the *Auction No. 65 Second Comment Public Notice*, that, because of the particular interdependence among bids in Auction No. 65 and the potential effects of one winning bidder's default on bidders for other licenses, the detrimental effects of a default may be significantly greater than in a standard SMR auction.⁶ We therefore adopt our proposal and will apply an additional default payment of 20 percent to any defaults after the close of Auction No. 65.

For further information, contact Howard Davenport at (202) 418-0660.

- FCC -

⁵ See Amendment of Part 22 of the Commission's Rules to Benefit the Consumers of Air-Ground Telecommunications Services, Biennial Regulatory Review — Amendment of Parts 1, 22, and 90 of the Commission's Rules, Amendment of Parts 1 and 22 of the Commission's Rules to Adopt Competitive Bidding Rules for Commercial and General Aviation Air-Ground Radiotelephone Service, WT Docket Nos. 03-103 and 05-42, *Report and Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 4403, 4405-06 ¶ 1, 4418-22 ¶¶ 24-32 (2005).

⁶ See *Auction No. 65 Second Comment Public Notice* at 2. As we noted in the *Auction No. 65 Second Comment Public Notice*, the Commission used similar reasoning when establishing an additional default payment percentage of 25 percent for bid defaults following a combinatorial auction: ". . . in an auction with combinatorial bidding, a default may reasonably be expected to affect multiple licenses (and perhaps every license in the auction) . . . the 25% payment component . . . [is] necessary to adequately discourage insincere bidding and strategic defaults." Amendment of the Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, *Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order*, 18 FCC Rcd 10180, 10200-201 ¶ 28 (2003).