



# PUBLIC NOTICE

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## AUCTION OF BROADBAND RADIO SERVICE LICENSES

### 16 Bidders Qualified To Participate In Auction 86

#### AU Docket No. 09-56

1. In this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) identifies 16 applicants found to be qualified to bid in the upcoming auction of 78 licenses for unassigned Broadband Radio Service (“BRS”) spectrum (Auction 86).<sup>1</sup> Bidding in Auction 86 is scheduled to begin on Tuesday, October 27, 2009. This Public Notice contains bidding instructions and other important information regarding Auction 86. It also addresses the continuing obligations and auction procedures for all Auction 86 applicants, including those that have not qualified to participate.

#### I. QUALIFIED AND NON-QUALIFIED BIDDERS

##### A. Qualified Bidders

2. Attachment A to this Public Notice lists the name of each of the 16 qualified bidders and each bidder’s claimed bidding credit revenue range. Designation of an applicant as qualified to bid in the auction indicates that the applicant has provided the certifications and information concerning its qualifications for participation in the auction and timely submitted a sufficient upfront payment as required by the Commission’s competitive bidding rules.<sup>2</sup>

3. In order to participate effectively in the auction, qualified bidders should again familiarize themselves with the auction rules, procedures, and other information described in the *Auction*

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<sup>1</sup> See “Auction of Broadband Radio Service (BRS) Licenses Scheduled for October 27, 2009; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 86,” *Public Notice*, DA 09-1376, 24 FCC Rcd 8277 (2009) (“*Auction 86 Procedures Public Notice*”).

<sup>2</sup> Under the Commission’s two-phased auction application process, a winning bidder must submit a long-form application after the close of Auction 86 to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the requested bidding credit. 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. See 47 C.F.R. §§ 1.2107 – 1.2109; see also Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2376-77 ¶¶ 163-168 (1994). Requests concerning application qualifications and eligibility for a bidding credit 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.

86 Procedures Public Notice and subsequent public notices.<sup>3</sup> These public notices and other documents related to Auction 86 are available on the Commission's auctions website at <http://wireless.fcc.gov/auctions/>. This Public Notice provides additional guidance.

## **B. Non-Qualified Bidders**

4. Attachment B to this Public Notice lists each applicant that submitted a short-form application but did not qualify to bid in this auction. These applicants remain subject to the Commission's rules prohibiting certain communications in connection with Commission auctions.<sup>4</sup>

## **II. REGISTRATION AND BIDDING ACCESS**

### **A. Registration Materials**

5. Qualified bidders have been automatically registered for the auction. Registration materials will be sent to the bidder's contact person at the contact address identified in the bidder's short-form application. Upon receipt, each bidder should be in possession of the following:

- At least two RSA SecurID<sup>®</sup> tokens
- Integrated Spectrum Auction System (ISAS) Bidder's Guide
- FCC Auction Bidder Line phone number

6. Qualified bidders are solely responsible for ensuring the security of their computer systems and their registration materials and for ensuring that only authorized bidders place bids on their behalf. The Commission assumes no responsibility or liability for these matters.

**WARNING:** Any unauthorized entity accessing or tampering with an FCC or other government computer system will be prosecuted to the full extent of the law.

7. Any qualified bidder listed in Attachment A of this Public Notice that has not received the registration mailing **by 12:00 noon Eastern Time (ET) on Wednesday, October 21, 2009**, must contact the Auctions Hotline directly at (717) 338-2868. Qualified bidders must have these registration materials to submit bids. Receipt of the registration mailing is critical to participating in both the mock auction and the actual auction, and it is the responsibility of each qualified bidder to ensure that all registration information has been received.

### **B. Registration Material Replacement**

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

### **C. Bidding Access**

9. The Commission will conduct Auction 86 over the Internet. Qualified bidders can access the Integrated Spectrum Auction System ("ISAS" or "FCC Auction System") at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. Bidders choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Bidders are reminded that Apple<sup>®</sup> Mac OS<sup>®</sup> is not currently supported.

10. In addition to bidding electronically over the Internet, qualified bidders will also have the option of bidding by telephone via the Auction Bidder Line. The Auction Bidder Line telephone number

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<sup>3</sup> *Auction 86 Procedures Public Notice*; see also "Auction of Broadband Radio Service Licenses; Status of Short-Form Applications to Participate in Auction 86," *Public Notice*, DA 09-2025 (rel. Sept. 11, 2009).

<sup>4</sup> See 47 C.F.R. § 1.2105(c); see also *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8283 ¶ 13.

will be supplied in the registration materials sent to all qualified bidders. Bidders choosing to bid electronically may use the Auction Bidder Line as an alternate method of bidding. When submitting bids by telephone, bidders should allow sufficient time to bid by placing their calls well in advance of the close of a round.<sup>5</sup>

11. Each authorized bidder must have his or her own SecurID<sup>®</sup> token, regardless of whether the bidder chooses to bid electronically or by telephone. Applicants with only one authorized bidder will be issued two SecurID<sup>®</sup> tokens, while applicants with two or three authorized bidders will be issued three tokens. For security purposes, the SecurID<sup>®</sup> tokens and the instructions for using them are mailed only to the contact person at the contact address listed on the applicant's short-form application. Please note that each SecurID<sup>®</sup> token is tailored to a specific auction. SecurID<sup>®</sup> tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 86.

12. Please note that the SecurID<sup>®</sup> tokens can be recycled, and we strongly encourage bidders to return the tokens to the FCC. We will provide pre-addressed envelopes that bidders may use to return the tokens once the auction is closed.

#### **D. Bidding Contingency Plan**

13. Bidders should develop comprehensive contingency plans that can be quickly implemented if bidders experience difficulty participating in the auction. While the FCC will correct any problems within Commission-controlled facilities, bidders are solely responsible for anticipating and overcoming problems such as bidder computer failures or other technical issues, loss of or problems with data connections, telephone service interruptions, adverse local weather conditions, unavailability of authorized bidders, or the loss or breach of confidential security codes. As referenced above, bidders will receive the Auction Bidder Line telephone number in their registration materials.

### **III. BIDDING TOOLS**

#### **A. Mock Auction**

14. The Bureau strongly encourages all qualified bidders to participate in the mock auction that will be conducted Friday, October 23, 2009. The mock auction will allow qualified bidders to familiarize themselves with the FCC Auction System and to ask FCC auction staff and technical support staff questions about the system and about auction conduct. The Bureau will conduct this auction over the Internet, and bidders will also have the option of bidding by telephone.

15. Qualified bidders can access the mock auction at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. Bidders choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Qualified bidders that wish to place bids by telephone should use the Auction Bidder Line telephone number supplied in the Auction 86 registration materials.

16. The mock auction will include only ten of the 78 licenses available in Auction 86<sup>6</sup> and will follow the rules governing the actual auction. The mock auction will be identified as Mock Auction 74. The FCC Auction System will also assume that each bidder submitted an upfront payment sufficient to give the bidder initial (maximum) eligibility of 1,800,000 bidding units. The mock auction will simulate the start of the auction, and each bidder will be required to be active on 90 percent of its current bidding eligibility. If a bidder does not meet this requirement, it will have a waiver automatically applied (if the bidder has any waivers available), or its current eligibility will be permanently reduced (if the bidder has no waivers remaining), possibly curtailing or eliminating the bidder from further bidding in the mock auction.

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<sup>5</sup> Because the length of a call to place bids may vary, bidders should allow a minimum of 10 minutes.

<sup>6</sup> The ten licenses in the mock auction will be the following: BR-BTA008, BR-BTA010, BR-BTA023, BR-BTA025, BR-BTA033, BR-BTA034, BR-BTA035, BR-BTA048, BR-BTA053, and BR-BTA056.

17. The mock auction bidding schedule for Friday, October 23, 2009, will be as follows:

Round 1	10:00 a.m.	-	11:00 a.m. ET
Round 2	12:00 p.m.	-	12:30 p.m. ET
Round 3	1:30 p.m.	-	2:00 p.m. ET
Round 4	2:30 p.m.	-	3:00 p.m. ET
Round 5	3:30 p.m.	-	3:45 p.m. ET
Round 6	4:00 p.m.	-	4:15 p.m. ET

**B. Watchlists**

18. The FCC Auction System sets up for each qualified bidder a default watchlist, called “All Licenses,” which contains every license selected on the bidder’s short-form application. Qualified bidders may create additional watchlists containing licenses of their own choosing, and licenses may appear in multiple watchlists. Bidders may access the FCC Auction System and begin creating their watchlists upon receipt of their SecurID® tokens. Instructions for creating watchlists will be provided in the Integrated Spectrum Auction System (ISAS) Bidder’s Guide. Please note that watchlists created in the mock auction will not display in Auction 86.

**C. Bidder Questions during the Mock Auction and Auction 86**

19. FCC auction staff and technical support staff will be available during the auction. Only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant’s short-form application should call on behalf of a bidder. When calling, the person should state that he or she is calling on behalf of a bidder with a time-sensitive auction question. To place bids by phone or to ask questions during the auction, bidders should use the FCC Auction Bidder Line telephone number supplied in the registration materials. Otherwise, bidders should refer to the contact information provided in Section VII “Contact Information” below.

**D. Bidder Suggestions**

20. The FCC Auction System includes a function for bidders to submit suggestions to the FCC, but this is not an appropriate mechanism for asking time-sensitive questions that may need an immediate response, such as questions about auction procedures or other issues. Those questions should be directed to the Auction Bidder Line or to the appropriate telephone number provided in Section VII “Contact Information” below.

**IV. AUCTION INFORMATION**

**A. Auction Announcements**

21. The Commission will post pertinent auction information as announcements in the FCC Auction System. Bidders should routinely check for announcements each time they enter the FCC Auction System and should read this information carefully.

**B. Bidding Schedule**

22. Auction 86 bidding will begin on Tuesday, October 27, 2009, with four rounds per day. The schedule will be as follows until further notice:

Bidding Round	10:00 a.m.	-	11:00 a.m. ET
Bidding Round	12:00 p.m.	-	1:00 p.m. ET
Bidding Round	2:00 p.m.	-	3:00 p.m. ET
Bidding Round	4:00 p.m.	-	5:00 p.m. ET

23. The Bureau will set the pace of the auction based upon monitoring of the bidding and assessment of the auction’s progress. All subsequent schedule changes will be made by announcement via the FCC Auction System during the course of the auction.

### C. Bid Amounts

24. Each license in Auction 86 will have a minimum opening bid amount, as previously announced.<sup>7</sup> In addition to the minimum opening bid, Auction 86 will begin with eight additional bid amounts (for a total of nine bid amounts) per license.<sup>8</sup> The Bureau retains the discretion to change the minimum acceptable bid amounts, the additional bid amounts, the cap (if any) on bid amounts, the number of acceptable bid amounts, and the parameters of the formulas used to calculate bid amounts if it determines that circumstances so dictate. Further, the Bureau retains the discretion to do so on a license-by-license basis.<sup>9</sup>

### D. Round Results

25. Round results will be available approximately 10 minutes after the close of each round. Auction 86 will be conducted using procedures that limit the disclosure of information on bidder interests and identities until after the close of bidding.<sup>10</sup>

26. Two types of reports will be available to bidders during the auction: (1) publicly available information, and (2) bidder-specific information available only to that bidder when logged in to the FCC Auction System. The public information will be available on the FCC Auction System results page and in downloadable files. When a bidder is logged in to the FCC Auction system, it 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 August 5, 2009. These files are available on the web page for Auction 86, <http://wireless.fcc.gov/auctions/86/>, via the “Sample Results Files” link in the “General Information” section of the page.

27. Detailed instructions for reviewing and downloading round results are provided in the Integrated Spectrum Auction System (ISAS) Bidder’s Guide. The bidder’s guide is included with qualified bidders’ registration materials and is available in electronic form through the “HELP” link in the FCC Auction System.

## V. MAINTAINING APPLICANT OBLIGATIONS

### A. Prohibition of Certain Communications

28. We remind applicants that section 1.2105(c) of the Commission’s rules prohibits applicants for licenses in any of the same or overlapping geographic areas from communicating with each other about bids, bidding strategies, or settlements, which may include communications regarding post-auction market structure, unless they have identified each other on their short-form applications as parties with which they have entered into agreements under section 1.2105(a)(2)(viii).<sup>11</sup> In Auction 86, the prohibition on certain communications applies to any applicants that selected any of the same licenses.<sup>12</sup>

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<sup>7</sup> *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8316-19 ¶¶ 172-178. Attachment A of the *Auction 86 Procedures Public Notice* sets forth the minimum opening bid amounts for each license offered in Auction 86.

<sup>8</sup> *Id.* at 8319 ¶ 185.

<sup>9</sup> *Id.* at 8319-20 ¶ 188.

<sup>10</sup> *Id.* at 8322 ¶ 208.

<sup>11</sup> 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*, FCC 01-270, 16 FCC Rcd 17,546 (2001) (“*Part 1 Seventh Report and Order*”); *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, FCC 00-274, 15 FCC Rcd 15,293, 15,297-98 ¶¶ 7-8 (2000).

<sup>12</sup> For a more detailed discussion of considerations relating to prohibited communications in the context of Auction 86, see *Auction 86 Procedures Public Notice* at 24 FCC Rcd at 8282-88 ¶¶ 11-32. *See also* “Wireless

29. The prohibition on certain communications is effective as of the short-form application filing deadline, which for Auction 86 was August 18, 2009, at 6:00 p.m. ET, and extends until the post-auction down payment deadline, which will be announced in a public notice released shortly following close of bidding.<sup>13</sup> **The prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.**<sup>14</sup> For further information on the prohibition, applicants should refer to the *Auction 86 Procedures Public Notice*.<sup>15</sup>

#### **B. Maintenance of Anonymous Bidding**

30. We remind applicants that, under the anonymous bidding procedures in effect for Auction 86, the Commission is withholding from public release, until after the close of the auction, any information that may indicate specific applicants' interests in the auction – including, among other things, license selections, upfront payments, and eligibility information – and the identities of bidders making bids or taking other bidding-related actions. Accordingly, communication to other applicants or public disclosure of such non-public information would appear to violate the Commission's anonymous bidding procedures and section 1.2105(c) of the Commission's rules.<sup>16</sup>

31. This prohibition would include communication of any such non-public information by an applicant to the public, financial analysts, or the press, as well as any such communication by an applicant to another applicant for one or more licenses covering geographic areas also covered by the applicant's license selections on its short-form application.<sup>17</sup> Examples of communications that may raise concern, given the anonymous bidding procedures in effect for Auction 86, include an applicant's statement to the press about its upfront payment or bidding eligibility, and an applicant's statement to the press that it is or is not interested in bidding in the auction.

#### **C. Disclosure Obligations and Possible Sanctions**

32. Section 1.65 requires auction applicants that engage in communications of bids or

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

<sup>13</sup> 47 C.F.R. § 1.2105(c)(1).

<sup>14</sup> For example, the Commission imposed a forfeiture in the amount of \$100,000 for violation of section 1.2105(c), even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder. *See* Northeast Communications of Wisconsin, LLC, *Forfeiture Order*, DA 04-3027, 19 FCC Rcd 18,635 (2004). The Commission subsequently reduced the amount of the forfeiture to \$75,000 on account of the parties' history of compliance with Commission rules. *See* Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., *Order on Review*, FCC 07-08, 22 FCC Rcd 8943 (2007), *review denied*, *Star Wireless, LLC v FCC*, 522 F.3d 469 (D.C. Cir. 2008) (Section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). The United States District Court for the Eastern District of Wisconsin recently granted summary judgment in favor of the United States pursuant to an effort by the Department of Justice to enforce the forfeiture. *United States v. Northeast Communications of Wisconsin, LLC*, *Decision and Order*, Case No. 07-C-715 (June 25, 2008). *See also* Letter to Robert Pettit, Esq., from Margaret W. Wiener, Chief, Auctions and Industry Analysis Div., DA 00-2904, 16 FCC Rcd 10,080 (Auc. Div. 2000) (declining to exempt an applicant's controlling interest from coverage by the rule, even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder).

<sup>15</sup> *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8282-8288 ¶¶ 11-32.

<sup>16</sup> *Id.* at 8310-12 ¶¶ 140-148.

<sup>17</sup> The Commission has long expressed the concern that applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of non-public information relating to auctions, such as bids and bidding strategies. *Compare* "Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*," DA 98-37, 13 FCC Rcd 341, 347-8 (1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

bidding strategies that may themselves be prohibited, and that result in an 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.<sup>18</sup> 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.<sup>19</sup> The Commission has clarified that each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.<sup>20</sup>

33. Parties reporting communications must take care to ensure that any such reports of prohibited communications do not themselves give rise to a violation of section 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection. A party seeking to report such prohibited communications should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection.<sup>21</sup> Such parties are also encouraged to consult with the Auctions and Spectrum Access Division staff if they have any questions about the procedures for submitting such reports.<sup>22</sup> The *Auction 86 Procedures Public Notice* provides additional guidance on procedures for submitting application-related information.<sup>23</sup>

34. 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.<sup>24</sup> Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.<sup>25</sup> In addition, we remind applicants 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 it may be prohibited from participating in future auctions.<sup>26</sup>

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<sup>18</sup> See *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17,550-51 ¶¶ 9. 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. 47 C.F.R. § 1.65.

<sup>19</sup> 47 C.F.R. § 1.2105(c)(6); see also *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17,555 ¶ 17.

<sup>20</sup> See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, *Second Report and Order*, FCC 07-132, 22 FCC Rcd 15,289, 15,403-04 ¶¶ 285-86 (2007).

<sup>21</sup> See 47 C.F.R. § 0.459 (procedures for requesting that materials or information submitted to the Commission be withheld from public inspection). If an applicant requests confidential treatment of a document, the cover page of the filing must prominently display that the applicant is seeking confidential treatment for that document. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all of the material to which the request applies. See 47 C.F.R. § 0.459(a).

<sup>22</sup> See "Contact Info" below.

<sup>23</sup> See *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8302 ¶¶ 94-99.

<sup>24</sup> See 47 C.F.R. § 1.2107(d).

<sup>25</sup> See 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.2109(d).

<sup>26</sup> See 47 C.F.R. § 1.2109(d).

#### **D. Submission of Auction-Related Filings**

35. As noted above, applicants seeking to amend their short-form applications during the auction must make modifications to their short-form applications electronically and submit a letter, briefly summarizing the changes, by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: [auktion86@fcc.gov](mailto:auktion86@fcc.gov). The e-mail summarizing the changes must include a subject or caption referring to Auction 86 and the name of the applicant.

36. Parties wishing to submit requests, complaints, or other information concerning Auction 86 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: [auktion86@fcc.gov](mailto:auktion86@fcc.gov). The Commission occasionally receives complaints regarding certain bidders and requests to suspend bidding during an auction. While the Commission reserves the right to take appropriate action during an auction to preserve the integrity of the auction process, it is generally our practice to address any such allegations only after the winning bidders have submitted their long-form applications, when there is greater opportunity for investigation of such allegations, if warranted. The Commission will not investigate any complaints or allegations that are not accompanied by full contact information – including name, address, and telephone number – for the complaining party or parties.

37. Finally, parties wishing to make suggestions concerning Auction 86 or future auctions should present such ideas using the suggestion feature of the FCC Auction System. (As mentioned above, this feature is not an appropriate mechanism for posing time-sensitive questions that need an immediate response.) Commission staff considers all suggestions, but may not always provide an individualized response.

#### **E. Amendments to Short-Form Applications (FCC Form 175)**

38. Applicants must maintain the accuracy and completeness of information furnished in their short-form applications, including their attachments.<sup>27</sup> Applicants should amend their short-form applications as promptly as possible, but no later than ten business days from the occurrence of a reportable change. Applicants must modify their short-form applications electronically and submit a letter briefly summarizing the changes by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: [auktion86@fcc.gov](mailto:auktion86@fcc.gov). Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

39. As described in the Commission's rules, applicants may make only minor corrections to their short-form applications (e.g., deletion and addition of authorized bidders or change in contact information).<sup>28</sup> Major modifications (e.g., license selection changes, newly-claimed or increased bidding credit, or changing control of the applicant) will not be accepted.<sup>29</sup> Bidders must immediately report any change affecting their eligibility for a bidding credit. Bidders should clearly state the nature of the change in an amendment to their short-form application and in the summary letter referenced above. In cases of diminished bidding credit eligibility, the Commission will make appropriate adjustments in the bidding credit prior to the computation of any down and final payment amounts due.

40. When amending short-form applications, applicants must avoid any statements or disclosures that may violate section 1.2105(c) of the Commission's rules, particularly in light of the limited information disclosure procedures in place for Auction 86.<sup>30</sup> Applicants should avoid including any information in their short-form applications that might convey information regarding license

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<sup>27</sup> See 47 C.F.R. § 1.65.

<sup>28</sup> See 47 C.F.R. § 1.2105(b).

<sup>29</sup> *Id.*

<sup>30</sup> See *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8312 ¶ 146.

selections, such as using applicant names that refer to licenses being offered, referring to certain licenses or markets in describing bidding agreements, or including any information in attachments that may otherwise disclose applicants' license selections.

**F. Ex Parte Rule**

41. Applicants should also be aware that the Commission has generally treated mutually exclusive short-form applications as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.<sup>31</sup>

**G. Due Diligence**

42. We remind potential bidders that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the licenses being offered in Auction 86. The Commission makes no representations or warranties about the use of this spectrum for particular services. We strongly encourage potential bidders to conduct their own research prior to the beginning of bidding in Auction 86 in order to determine the existence of pending proceedings, pleadings, applications, or authorizations that might affect their decisions regarding participation in the auction. Each potential bidder is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect the bidder's ability to bid on, otherwise acquire, or make use of licenses available in Auction 86. 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.

43. Participants should continue such research throughout the auction. For further details regarding due diligence, qualified bidders should refer to the *Auction 86 Procedures Public Notice* under Section I.C.4.<sup>32</sup>

**VI. POST-AUCTION INFORMATION**

**A. Post-Auction Procedures**

44. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments and final payments.<sup>33</sup> Winning bidders will have 10 business days following that public notice to make down payments and file a long-form application (FCC Form 601) and an ownership disclosure information report (FCC Form 602).<sup>34</sup> Winning bidders claiming eligibility to receive a bidding credit will be subject to more extensive reporting requirements contained in section 1.2112(b) of the Commission's rules.<sup>35</sup> In addition, winning bidders with foreign ownership interests will be required to comply with 47 U.S.C. § 310(b) at the long-form application stage.

**B. Upfront Payment Refunds**

45. Qualified bidders are advised not to request refunds of any unused upfront payment balances until after the Bureau issues a public notice announcing the winning bidders in Auction 86.

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<sup>31</sup> 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*, FCC 94-283, 9 FCC Rcd 6760 (1994). See also 47 C.F.R. § 1.1202(d)(1) Note 1.

<sup>32</sup> See *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8290-91 ¶¶ 41-49.

<sup>33</sup> For more detail, see *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8323-24 ¶¶ 210-217.

<sup>34</sup> See 47 C.F.R. § 1.2107.

<sup>35</sup> 47 C.F.R. § 1.2112(b).

## VII. CONTACT INFORMATION

46. Further instructions regarding these post-auction procedures are contained in the *Auction 86 Procedures Public Notice* and will be provided in the public notice announcing the winning bids.<sup>36</sup> For further information concerning Auction 86, please contact:

### **General Auction 86 Information**

General Auction Questions

### **FCC Auctions Hotline**

(888) 225-5322, option two; or  
(717) 338-2868

### **Auction 86 Process and Procedures**

### **Auctions and Spectrum Access Division**

(202) 418-0660  
Jeff Crooks (Analyst)  
Lisa Stover (Project Manager)

### **Auction 86 Legal Information**

Auction Rules, Policies, Regulations

### **Auctions and Spectrum Access Division**

(202) 418-0660  
Sayuri Rajapakse (Attorney)

### **Licensing Information**

Service Rules, Policies, Regulations  
Licensing Issues, Engineering Issues  
Due Diligence, Incumbency Issues

### **Broadband Division**

(202) 418-2487  
Nancy Zaczek (Attorney)  
Stephen Zak (Engineer)

### **Technical Support**

Electronic Filing  
FCC Auction System (Hardware/Software  
Issues)

### **FCC Auctions Technical Support Hotline**

(877) 480-3201, option nine; or (202) 414-1250  
(202) 414-1255 (TTY)  
Hours of service: 8:00 a.m. – 6:00 p.m. ET,  
Monday through Friday

### **Auction Payments**

Instructions for Wiring Upfront Payments

### **Auctions Accounting Group**

(202) 418-0578  
Gail Glasser

47. 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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

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<sup>36</sup> See 47 C.F.R. §§ 1.2107, 1.2109(a).