



# 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 10-1360  
July 29, 2010

## CLOSED AUCTION OF BROADCAST CONSTRUCTION PERMITS CLOSES

### WINNING BIDDERS ANNOUNCED FOR AUCTION 88

**Down Payments Due August 12, 2010**  
**Final Payments Due August 26, 2010**  
**FCC Form 301 and Long-Form Application Amendments Due August 30, 2010**

#### I. INTRODUCTION

1. On July 23, 2010, the Federal Communications Commission completed an auction of construction permits for 11 commercial FM broadcast stations, one commercial FM translator station, and one commercial AM station. This auction, which was designated Auction 88, raised (in net bids) a total of \$1,442,450, with 13 bidders winning a total of 13 construction permits.

#### II. AUCTION RESULTS

2. This Public Notice provides detailed information concerning winning bidders, down payments, final payments and/or refunds, long-form application (FCC Forms 301 or 349) filing requirements, and licensing matters. Key information appears in the following attachments:

**Attachment A:** "Winning Bids" lists winning bidders and both their total gross and net winning bid amounts.

**Attachment B:** "Bidder Payment/Refund" lists down payments and final payments owed by winning bidders and refunds due, if any.<sup>1</sup>

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

#### III. POST-AUCTION PROCEDURES

##### A. Down Payments

3. The Commission's rules require that winning bidders in Auction 88 must have on deposit with the Commission enough funds to cover the down payments on winning bids within ten business

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<sup>1</sup> The amounts listed in Attachment B are based on upfront payments and net winning bids.

days after the release of this Public Notice, in this case by **6:00 p.m. Eastern Time (ET) on August 12, 2010.**<sup>2</sup> Specifically, each winning bidder's total deposit must be twenty percent of the net amount of its winning bids. If a winning bidder's upfront payment is not sufficient to meet this requirement, the winning bidder must deposit additional funds to meet its required down payment.<sup>3</sup>

4. The amount now due from each winning bidder, if any, is set out in the "Additional Amount Due after Upfront Payment Balance Applied Due by August 12, 2010" column of Attachment B. A payment is necessary only if a winning bidder's upfront payment does not cover the required total down payment (as reflected in Attachment B).

5. Wire transfers for down payments must be received by the Commission by **6:00 p.m. ET on August 12, 2010.** Failure to complete this down payment process, consistent with the payment method described in this Public Notice, by 6:00 p.m. ET on August 12, 2010, will result in default.<sup>4</sup>

### **B. Final Payments**

6. Each winning bidder will be required to submit the balance of the net amount of its winning bids as set out in the "Final Payment Amount (80% of Net Winning Bids) Due By August 26, 2010 or (Refund)" column of Attachment B by **6:00 p.m. ET on August 26, 2010.**<sup>5</sup> Each winning bidder must pay the full amount of the Final Balance Due shown in Attachment B by 6:00 p.m. ET on August 26, 2010 (or by 6:00 p.m. ET on September 10, 2010, along with the five percent late fee required by section 1.2109(a) of the Commission's rules).<sup>6</sup> Full and timely payment of winning bids and any applicable late fees must be made in accordance with section 1.2109(a) of the Commission's rules and must occur before action will be taken upon a winning bidder's long-form application (FCC Form 301 or 349).<sup>7</sup> Specifically, construction permits will be granted only after the full and timely payment of winning bids and any applicable late fees, in accordance with section 1.2109(a).<sup>8</sup>

7. Wire transfers of final payments must be received by the Commission by **6:00 p.m. ET on August 26, 2010** (or by 6:00 p.m. ET on September 10, 2010, along with the five percent late fee required by section 1.2109(a) of the Commission's rules).<sup>9</sup> Failure to complete the final payment, consistent with the payment method described in this Public Notice, by 6:00 p.m. ET on August 26, 2010 (or by 6:00 p.m. ET on September 10, 2010, along with the five percent late fee) will result in default.<sup>10</sup>

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<sup>2</sup> 47 C.F.R. § 1.2107(b).

<sup>3</sup> *Id.*

<sup>4</sup> See Section III. D., "Default and Disqualification Payments," below.

<sup>5</sup> 47 C.F.R. § 1.2109(a).

<sup>6</sup> *Id.*

<sup>7</sup> 47 C.F.R. § 1.2109. A winning bidder that is found unqualified to be a Commission permittee will be deemed to have defaulted, its application will be dismissed, and it will be liable for the payment set forth in Section 1.2104(g)(2) of the Commission's rules. See 47 C.F.R. §§ 1.2104(g), 1.2109(c).

<sup>8</sup> 47 C.F.R. § 1.2109(a).

<sup>9</sup> 47 C.F.R. § 1.2109(a).

<sup>10</sup> Section III.D., "Default and Disqualification Payments," below.

### C. Method of Payment for Down and Final Payments

8. All payments must be in U.S. dollars and made in the form of a wire transfer.<sup>11</sup> No checks, credit card payments, automated clearing house (“ACH”), or other forms of payment will be accepted. All payments must be accompanied by a completed FCC Form 159.<sup>12</sup> If applicable, a partially-completed copy of the FCC Form 159 will be sent to each winning bidder to facilitate submission of the correct down payment and the correct final payment.

9. Each winning bidder is responsible for ensuring timely submission of its payment and for timely filing of an accurate and complete FCC Remittance Advice Form (FCC Form 159). A winning bidder should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the wire transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.<sup>13</sup> Each winning bidder should obtain confirmation from its financial institution that its wire transfer was successful and from Commission staff that the Commission has timely received the winning bidder’s payment and deposited it into the proper account. For confirmation that the Commission has timely received the winning bidder’s down payment or final payment and deposited it into the proper account, a winning bidder may contact Gail Glasser of the Office of Managing Director’s Auctions Accounting Group at (202) 418-0578, or alternatively, Theresa Meeks at (202) 418-2945.

10. Down payments and final payments must be preceded by an accurate and complete FCC Remittance Advice Form (FCC Form 159). At least one hour before placing the order for the wire transfer (but on the same business day), a winning bidder must fax the completed FCC Form 159 to U.S. Bank in St. Louis, Missouri, at (314) 418-4232. Proper completion of the FCC Form 159 is critical to ensuring correct credit of a winning bidder’s deposits. A winning bidder must use in its Form 159 the same FCC Registration Number (FRN) used with the applicant’s short-form application (FCC Form 175).

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

ABA Routing Number: **021030004**

Receiving Bank: **TREAS NYC**

33 Liberty Street

New York, NY 10045

ACCOUNT NAME: **FCC**

ACCOUNT NUMBER: **27000001**

OBI Field: (Skip one space between each information item) “AUCTIONPAY”

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<sup>11</sup> The wire transfer must be initiated by the winning bidder through its bank, authorizing the bank to wire funds from the bidder’s account to the Commission’s account, which will receive payments for financial obligations resulting from Auction 88.

<sup>12</sup> Copies of the FCC Form 159 may be obtained by calling the Commission’s Forms Distribution Center at (800) 418-3676 (outside Washington, DC) or (202) 418-3676. Copies of the FCC Form 159 can also be obtained via the Internet (<http://www.fcc.gov/formpage.html>) or by calling from the handset of a fax machine the Commission’s Fax Information System at (202) 418-0177.

<sup>13</sup> See, e.g. Letter to Lee G. Petro, Esq. from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, DA 10-1270 (Auc. Div. July 8, 2010); Letter to David G. O’Neil, Esq. from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, DA 08-622, 23 FCC Rcd 4765 (Auc. Div. 2008).

APPLICANT FRN: (same as FCC Form 159, block 21)  
PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "A88D")  
FCC CODE 1: (same as FCC Form 159, Block 28A: "88")  
PAYER NAME: (same as FCC Form 159, Block 2)  
LOCKBOX NO.: #979085

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

#### **D. Default and Disqualification Payments**

13. The Commission imposes payment obligations on bidders that default on payments due after an auction closes and on those that are disqualified.<sup>14</sup>

14. If a winning bidder defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified), the defaulting bidder will be subject to the payment obligations described in section 1.2104(g)(2).<sup>15</sup> These payment obligations include both 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 permit or license covering the same spectrum is won in an auction, plus an additional payment equal to a percent of the defaulter's bid or the subsequent winning bid, whichever is less.<sup>16</sup> The additional default payment for Auction 88 permits was set at twenty percent of the applicable bid.<sup>17</sup>

15. If a winning bidder fails to remit the required down payment within ten business days after the Commission has released this Public Notice, in this case by August 12, 2010, the bidder will be deemed to have defaulted, its long-form application will be dismissed, and it will be liable for a default payment as described above.<sup>18</sup>

16. If a winning bidder fails to pay the balance of its winning bid in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make a late payment within ten business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due.<sup>19</sup> If a winning bidder fails to pay (a) the balance of its winning bid by the payment deadline on August 26, 2010, or (b) the balance of its winning bid plus the late fee by the late payment deadline, on September 10, 2010, it will be deemed to have defaulted, and it will be subject to applicable default payments.<sup>20</sup>

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<sup>14</sup> See 47 C.F.R. §§ 1.2104(g), 1.2109.

<sup>15</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>16</sup> *Id.* See also Closed Auction of Broadcast Construction Permits Scheduled for July 20, 2010; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction 88, *Public Notice*, DA 10-524, 25 FCC Rcd 2942, 2982-83 ¶¶ 166-69 (WTB/MB 2010) ("*Auction 88 Procedures Public Notice*").

<sup>17</sup> *Id.*

<sup>18</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

<sup>19</sup> 47 C.F.R. §§ 1.2109(a), 73.5003.

<sup>20</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109(a), 1.2109(c).

17. Construction permits will be awarded upon completion of the review of each applicant's long-form application and a determination that the applicant's long-form application meets Commission requirements for grant, but only after the full and timely payment of winning bids and any applicable late fees.<sup>21</sup> If a winning bidder defaults on any of its required payments or is disqualified for any reason after having made the required payments, it will be deemed to have defaulted, its application will be dismissed, and it will be liable for the payment set forth in section 1.2104(g)(2).<sup>22</sup>

18. Additionally, a bidder that is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.<sup>23</sup>

#### **E. Refund of Excess Payments**

19. Upfront monies on deposit that are in excess of an applicant's Auction 88 obligations may be refunded to the payer of record as identified on the FCC Form 159. To be eligible to receive a refund, an applicant must submit a refund request and provide wire transfer instructions. An applicant can provide this information by using the Commission's Integrated Spectrum Auction System ("ISAS") and clicking on the "See Wire Transfer for Refund Purposes" link under the Post-Auction section of the My Auctions web page by August 12, 2010. After this date, an applicant must send a request for refund along with the necessary wire transfer instructions and FRN by fax to Gail Glasser of the Office of the Managing Director at (202) 418-2843 (FAX). Any questions concerning refunds should be referred to Gail Glasser at (202) 418-0578.

#### **F. Long-Form Applications**

20. **FM Broadcast and FM Translator Station Winning Bidders.** **Prior to midnight ET on August 30, 2010,** each FM broadcast and FM Translator station winning bidder must submit electronically all necessary amendments to its previously-filed long-form application(s) (FCC Form 301-FM, Application for Construction Permit for Commercial Broadcast Station, or FCC Form 349, Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station) covering the construction permit for which they were the winning high bidder.<sup>24</sup> In accordance with Commission rules, amendment data submitted by winning bidders must not constitute a major change from either the technical or other data specified in the previously-filed FCC Forms 301-FM or 349.<sup>25</sup> Winning bidders must submit minor amendments to previously-filed long-form applications prior to midnight on August 30, 2010. Winning bidders' long form applications, as amended, will be placed on public notice, triggering the appropriate period for the filing of petitions to deny.<sup>26</sup>

21. **AM Station Winning Bidder.** **Prior to midnight ET on August 30, 2010,** the AM broadcast station winning bidder must submit electronically a properly completed long-form application (FCC

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<sup>21</sup> 47 C.F.R. §§ 1.2109(a), 73.5003.

<sup>22</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109.

<sup>23</sup> 47 C.F.R. § 1.2109(d).

<sup>24</sup> See 47 C.F.R. §§ 73.3573(a)(1), 73.3573(f)(5)(iii), 73.3522(a)(3).

<sup>25</sup> See 47 C.F.R. §§ 73.3522, 73.3571, 73.3573.

<sup>26</sup> See Section III. I., "Application Processing and Construction Permit Grant," below.

Form 301-AM, Application for Construction Permit for Commercial Broadcast Station), including all required exhibits, for the construction permit for which it was the winning bidder in Auction 88.<sup>27</sup>

22. All Auction 88 Winning Bidders. An applicant that fails to submit the required long-form application before the specified deadline or fails to submit the required amendment(s) to its previously-filed long-form application(s) before the specified deadline and fails to establish good cause for any late-filed submission shall be deemed to have defaulted and shall be subject to the payments set forth in section 1.2104(g) of the Commission's rules.<sup>28</sup> Each Auction 88 winning bidder must file either an accurate and complete long-form application or an accurate and complete amendment to its previously-filed long-form application *electronically* through the Media Bureau's Consolidated Database System (CDBS) online electronic filing system.<sup>29</sup> In accordance with the Commission's rules, the electronic filing of a complete FCC Form 301-AM must be accompanied by the appropriate application filing fee.<sup>30</sup> Neither the amended information submitted by the FM broadcast and FM Translator winning bidders nor the information submitted on the new FCC Form 301-AM application by the AM station winning bidder may constitute a major change from any information specified in the winning bidder's previously-filed application.<sup>31</sup> Instructions for use of the Media Bureau's electronic filing system are available in the CDBS User's Guide, which can be accessed from the electronic filing web site at <http://www.fcc.gov/mb/cdbs.html>.

23. The Guide can be accessed by clicking on the CDBS link at the electronic filing web site, above. This action will take the user to the Media Bureau's CDBS Electronic Filing System site. The user should then click on the "Go to CDBS User's Guide" link. Internet access to the CDBS online electronic forms filing system requires, at a minimum, a browser such as Netscape version 3.04 or Internet Explorer version 3.51, or later. When filing FCC Form 301-AM, an applicant must select "Long Form Application for Closed Auction 88" on the Pre-form and enter the relevant short-form application file number from CDBS (Question 2).<sup>32</sup> For assistance with electronic filing, call the Audio Division Help Desk at (202) 418-2662.

24. The Commission staff will return applications or application amendments not submitted in accordance with the procedures described in this Public Notice. Applicants are encouraged to pay the FCC Form 301-AM application filing fee electronically using the CDBS filing system in order to avoid processing delays.

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<sup>27</sup> See 47 C.F.R. § 73.5005(a).

<sup>28</sup> See 47 C.F.R. §§ 1.2104(g), 1.2107(c), 73.5005(c).

<sup>29</sup> For information regarding electronic application filing, refer to "Mass Media Bureau Implements Mandatory Electronic Filing of FCC Forms 301, 314, and 315," *Public Notice*, DA 01-283, 16 FCC Rcd 3989 (MMB 2001).

<sup>30</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *First Report and Order*, FCC 98-194, 13 FCC Rcd 15920, 15984 ¶ 164 (1998).

<sup>31</sup> See 47 C.F.R. §§ 73.3522, 73.3571, 73.3573.

<sup>32</sup> All application file numbers for the previously-filed AM station short form applications (FCC Form 175), as well as for the previously-filed FM station or FM translator long form applications (FCC Forms 301 and 349), may be found in Attachment A to the *Auction 88 Procedures Public Notice*.

## G. Additional Post-Auction Filing Requirements

25. Each Auction 88 winning bidder, whether filing an amendment to a previously-filed long-form application or filing a complete FCC Form 301-AM application for the first time, must submit the post-auction exhibits required by section 73.5005(a) of the Commission's rules. Specifically, section 73.5005(a)<sup>33</sup> requires that post-auction long-form applications include the exhibits mandated by section 1.2107(d) (providing a detailed explanation of the terms, conditions, and parties involved in any bidding consortium, joint venture, partnership, or other agreement or arrangement the applicant had entered into relating to the competitive bidding process);<sup>34</sup> section 1.2110(j) (requiring an applicant claiming bidding credit eligibility to describe how it satisfies the eligibility requirements for such bidding credit, and to list and summarize all agreements that affect such status, such as partnership agreements, shareholder agreements, management agreements, spectrum leasing or resale arrangements, and any other agreements, including oral agreements, that establish that the auction applicant will have both *de facto* and *de jure* control of the entity or the presence or absence of impermissible or attributable material relationships);<sup>35</sup> and section 1.2112(a) (requiring that each long-form application fully disclose ownership information and the real party or parties in interest in the applicant or application).<sup>36</sup>

26. An applicant seeking to qualify for a new entrant bidding credit under the "eligible entity" provisions of section 73.3555 must also provide information establishing its status in its long-form application.<sup>37</sup> The Commission generally attributes the media interests held by substantial investors in, or creditors of, an applicant claiming new entrant status.<sup>38</sup> Specifically, the attributable mass media interests held by an individual or entity with an equity and/or debt interest in an applicant are attributed to that bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity and debt interests, in the aggregate, exceed 33 percent of the total asset value of the applicant, even if such an interest is non-voting.<sup>39</sup>

27. In the *Diversity Order*, the Commission relaxed the equity/debt plus attribution standard, to allow for higher investment opportunities in an entity meeting the definition of an "eligible entity."<sup>40</sup> "Eligible entity" is defined in section 73.3555, Note 2(i) of the Rules.<sup>41</sup> Pursuant to the *Diversity Order*,

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<sup>33</sup> 47 C.F.R. § 73.5005(a). See also Instructions for Form 301, Application for Construction Permit for Commercial Broadcast Station, Instructions for Section II: Legal Information, paragraph G. Item 10: Auction Authorization for auction-related exhibit filing requirements; Instructions for Form 349, Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, Instructions for Section II – Legal Information, paragraph J. Item 11: Auction Authorization.

<sup>34</sup> 47 C.F.R. § 1.2107(d).

<sup>35</sup> 47 C.F.R. § 1.2110(j).

<sup>36</sup> 47 C.F.R. § 1.2112(a).

<sup>37</sup> 47 C.F.R. § 73.3555, Note 2(i). See also *Auction 88 Procedures Public Notice*, 25 FCC Rcd at 2960 ¶ 61 (overview of eligible entity standard for purposes of new entrant bidding credit).

<sup>38</sup> 47 C.F.R. § 73.5008(c) (attribution of mass media interests).

<sup>39</sup> *Id.*

<sup>40</sup> Promoting Diversification of Ownership In the Broadcasting Services, MB Docket No. 07-294, *Report and Order and Third Further Notice of Proposed Rule Making*, FCC 07-217, 23 FCC Rcd 5922 (2008) ("*Diversity Order*").

<sup>41</sup> 47 C.F.R. § 73.3555, Note 2(i). An "eligible entity" shall include any entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping, as set forth in 13 C.F.R. § 121.201, and holds (i) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting

the Commission will now allow the holder of an equity or debt interest in the applicant to exceed the above-noted 33 percent threshold without triggering attribution provided: (1) the combined equity and debt in the eligible entity is less than 50 percent; or (2) the total debt in the eligible entity does not exceed 80 percent of the asset value, and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the eligible entity or any related entity.<sup>42</sup>

28. An applicant claiming status as an eligible entity as its basis for its bidding credit eligibility must establish its status as part of its response to the multiple ownership question on Forms 301 or 349.<sup>43</sup>

29. Applicants also are reminded that the Commission's "red light rule" implementing the Debt Collection Improvement Act will be enforced.<sup>44</sup> Under the red light rule, the Commission will not process applications or other requests for benefits filed by parties that have outstanding debts owed to the Commission.<sup>45</sup>

#### **H. Maintaining Accuracy of Information**

30. After the auction closes, all required changes to an applicant's information must be made by filing or amending the applicant's long-form application (FCC Form 301-FM or 349).<sup>46</sup> With the release of this Public Notice, applicants are no longer required to maintain the accuracy and completeness of information furnished on their short-form applications and exhibits.

#### **I. Application Processing and Construction Permit Grant**

31. After its initial review of the long-form applications, the Media Bureau will issue a public notice listing the applications that are acceptable for filing. Pursuant to sections 1.2108(b) and 73.5006 of the Commission's rules,<sup>47</sup> interested parties will have ten days from release of that public notice to file petitions to deny any of these applications, except for a long-form application filed for an FM translator station, where interested parties will have fifteen days from release of that public notice to file a petition to deny.<sup>48</sup> The Media Bureau will use public notices generated by CDBS to start the ten-day period or fifteen-day period for filing petitions to deny. The public notice entitled "Broadcast Applications" will

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power of the corporation or partnership that will own the media outlet; or (ii) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (iii) more than 50 percent of the voting power of the corporation that will own the media outlet if such corporation is a publicly traded company.

<sup>42</sup> See 47 C.F.R. § 73.5008(c).

<sup>43</sup> See FCC Form 301 - Section II-Legal, Item 4(d) and FCC Form 349 - Section II - Legal, Item 11: Auction Authorization for "eligible entity" exhibit requirements. See also Instructions for Form 301, Application for Construction Permit for Commercial Broadcast Station, Instructions for Section II - Legal Information, paragraph B. Item 2: Parties to the Application; Instructions for Form 349, Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, Instructions for Section II - Legal Information, paragraph J. Item 11: Auction Authorization.

<sup>44</sup> 47 C.F.R. § 1.1910.

<sup>45</sup> *Id.*; see also 47 C.F.R. § 1.2109(c) (post-auction defaults).

<sup>46</sup> See 47 C.F.R. § 1.65.

<sup>47</sup> 47 C.F.R. §§ 1.2108(b), 73.5006

<sup>48</sup> 47 C.F.R. § 73.5006.



list such applications as “Accepted for Filing.” An applicant for an AM or FM station may file an opposition to any petition to deny within five days of the filing deadline for petitions to deny and an applicant for an FM translator station may file an opposition to any petition to deny within fifteen days of the filing deadline for a petition to deny of its long-form application.<sup>49</sup> Replies must be filed within five days of the filing deadline for oppositions to a petition to deny a long-form application for an AM or FM station and must be filed within ten days of the filing deadline for oppositions to a petition to deny a long-form application for an FM translator station.<sup>50</sup> The Commission reminds all parties and their counsel that the Commission intends to use its authority fully to deter the filing of frivolous pleadings.<sup>51</sup>

32. After the long-form application review process, if the Commission determines that additional payment from an applicant is due, the Media Bureau will provide further instructions in a future public notice. If the Commission determines that an applicant is otherwise qualified, that there are no substantial and material issues of fact, and that no additional payments are due, the Commission will grant the construction permit.<sup>52</sup>

#### **IV. OTHER IMPORTANT INFORMATION**

##### **A. Maintaining Prohibition on Certain Communications**

33. To ensure the competitiveness of the auction process, the Commission’s rules prohibit competing applicants from communicating with each other about bids, bidding strategies, or settlements, unless such applicants have identified each other on their short-form applications as parties with whom they have entered into agreements under section 1.2105(a)(2)(viii).<sup>53</sup> As explained more fully in the *Auction 88 Qualified Bidders Public Notice*, this prohibition began at the short-form application filing deadline at 6:00 p.m. ET on May 13, 2010, and continues until the down payment deadline, which is 6:00 p.m. ET on August 12, 2010.<sup>54</sup>

34. The prohibition on certain communications applies to all applicants in Auction 88 (unless they have identified each other on their short-form applications as parties with whom they have entered into agreements under section 1.2105(a)(2)(viii)), regardless of whether an applicant became a qualified bidder or actually participated in the bidding, and the prohibition continues for all applicants until the down payment deadline regardless of whether a winning bidder needs to make an additional payment by

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<sup>49</sup> 47 C.F.R. § 73.5006(c).

<sup>50</sup> *Id.*

<sup>51</sup> See Commission Taking Tough Measures Against Frivolous Pleadings, *Public Notice*, FCC 96-42, 11 FCC Rcd 3030 (1996).

<sup>52</sup> See 47 C.F.R. §§ 1.2108(d), 1.2109(a).

<sup>53</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); *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>54</sup> See Closed Auction of Broadcast Construction Permits, 25 Bidders Qualified to Participate in Auction 88, *Public Notice*, DA 10-1261 (WTB/MB July 8, 2010). See also *Auction 88 Procedures Public Notice*, 25 FCC Rcd at 2948-53 ¶¶ 12-29.

the down payment deadline.<sup>55</sup> Each applicant in this auction certified its compliance with section 1.2105(c) when its short-form application was filed.<sup>56</sup>

### **B. Return of SecurID® Tokens**

35. The SecurID® tokens distributed to qualified bidders are tailored to this auction and will not work for future auctions. Bidders should return their SecurID® tokens to the Commission for recycling. The Commission will send bidders, along with the copy of this Public Notice, a pre-addressed, stamped envelope to return the SecurID® tokens. Bidders should return the tokens by August 12, 2010.

### **C. Contact Information**

36. For further information, contact:

#### **News Media**

**Wireless Telecommunications Bureau**  
Matt Nodine at (202) 418-1646

**Media Bureau**  
Janice Wise at (202) 418-8165

#### **Licensing Information**

Service Rules, Policies, Regulations  
Licensing Issues, Engineering Issues  
Due Diligence, Incumbency Issues,  
FCC Form 301 or Form 349 questions

**Media Bureau, Audio Division**  
Lisa Scanlan, Assistant Chief or  
Thomas Nessinger, Attorney Advisor, at  
(202) 418-2700

#### **Auction Payment Information**

Wire Transfers  
Refunds

**FCC Auctions Accounting Branch**  
Gail Glasser at (202) 418-0578, or  
alternatively, Theresa Meeks at (202) 418-2945, or  
(202) 418-2843 (fax)

#### **Auction 88 Information**

General Auction Information, Process, and  
Procedures

**Auctions and Spectrum Access Division**  
Linda Sanderson, Project Manager, or  
Jeff Crooks, Auction Analyst, at (202) 418-0660

Auction Rules, Policies, and Regulations

Lynne Milne, Attorney, at (202) 418-0660

#### **Accessible Formats**

Braille, large print, electronic files, or  
audio format for people with disabilities

**Consumer and Governmental Affairs Bureau**  
(202) 418-0530, or (202) 418-0432 (TTY)  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

#### **FCC Internet Sites**

<http://www.fcc.gov>  
<http://wireless.fcc.gov/auctions>  
<http://www.fcc.gov/mb/cdbs.html>

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<sup>55</sup> *Id.*

<sup>56</sup> *See* 47 C.F.R. § 1.2105(a)(2)(ix).