



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

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AUCTION OF 218-219 MHz SERVICE AND PHASE II 220 MHz SERVICE LICENSES SCHEDULED FOR DECEMBER 7, 2010

COMMENT SOUGHT ON COMPETITIVE BIDDING PROCEDURES FOR AUCTION 89

AU Docket No. 10-107

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I. INTRODUCTION

1. By this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) announces an auction of 218-219 MHz Service licenses and Phase II 220 MHz Service licenses to commence on December 7, 2010 (“Auction 89”).

II. LICENSES TO BE OFFERED IN AUCTION 89

2. Auction 89 will include a total of 1,868 licenses. These include licenses for spectrum not previously offered at auction, licenses that remained unsold from a previous auction, licenses on which a winning bidder in a previous auction defaulted, and licenses for spectrum previously associated with licenses that cancelled or terminated. In a few cases, the available license does not cover the entire geographic area or bandwidth that was covered by a previously auctioned license due to partitioning or disaggregation by a previous licensee.

3. Attachment A to this Public Notice provides a complete list of the licenses available in Auction 89.

A. License Descriptions

1. 218-219 MHz Service Licenses

4. Auction 89 will offer 1,420 licenses in the 218-219 MHz Service¹: 716 A Block licenses and 704 B Block licenses covering a total of 727 Cellular Market Areas (“CMAs”).²

¹ This service was originally known as the Interactive Video and Data Service or IVDS. The Commission re-designated this service as the 218-219 MHz Service in 1998, in the course of modifying the rules to maximize the efficient and effective use of the band. *See* Amendment of Part 95 of the Commission’s Rules to Provide Regulatory Flexibility in the 218-219 MHz Service, *Report and Order and Memorandum Opinion and Order*, WT Docket No. 98-169, RM-8951, FCC 99-239, 15 FCC Rcd 1497, 1499 ¶ 2 (1999), *on recon.*, *Order*, FCC 99-372, 14 FCC Rcd 21,078 (1999). The Commission believed such re-designation better reflected the breadth of services available in this service. *See* Amendment of Part 95 of the Commission’s Rules to Provide Regulatory Flexibility in the 218-219 MHz Service and Amendment of Part 95 of the Commission’s Rules to Allow Interactive Video and Data Service Licensees to Provide Mobile Services (proceeding terminated), *Order, Memorandum Opinion and Order, and Notice of Proposed Rulemaking*, FCC 98-228, 13 FCC Rcd 19,064, 19,075 ¶ 16 (1998).

5. The 218-219 MHz Service is a short-distance communication service designed to provide any fixed or mobile communications service to subscribers within a specified service area.³ A licensee may provide service on a common carrier or private basis, using one- and two-way communications.⁴ Although the service rules are designed to allow licensees the maximum flexibility to structure services to meet demand, 218-219 MHz Service channels are unable to support operations that require large amounts of spectrum, including certain video, voice, and advanced data applications. The components of each 218-219 MHz Service system are its administrative apparatus, its response transmitter units (“RTUs”), and one or more cell transmitter stations (“CTSs”).⁵ RTUs may be used in any location within the service area.⁶ CTSs provide service from a fixed point.⁷ CTSs and RTUs are authorized under the 218-219 MHz Service licenses offered in Auction 89; however, CTSs that do not meet the limitations of section 95.811 of the Commission’s rules must be licensed separately.⁸

6. The following table describes the 218-219 MHz Service licenses that will be offered in Auction 89.

Block	Frequencies	Bandwidth	Geographic Area Type	No. of Licenses
A	218.0 – 218.5 MHz	500 kHz	CMA	716
B	218.5 – 219.0 MHz	500 kHz	CMA	704

7. A complete list of 218-219 MHz Service licenses offered in Auction 89 is available in Attachment A.⁹

2. Phase II 220 MHz Service Licenses

8. Auction 89 will offer 448 Phase II 220 MHz Service licenses¹⁰, including 444 Economic Area (“EA”) licenses and 4 Economic Area Grouping (“EAG”) licenses, covering a total of 154 separate EAs and EAGs.

² The CMA licenses consist of both Metropolitan Statistical Area (“MSA”) and Rural Service Area (“RSA”) licenses.

³ See 47 C.F.R. §§ 95.803(a), 95.807(a).

⁴ See 47 C.F.R. §§ 95.803(b), 95.811.

⁵ See 47 C.F.R. § 95.811(b).

⁶ See 47 C.F.R. § 95.803(b)

⁷ See *id.*

⁸ See 47 C.F.R. § 95.811.

⁹ The FCC issued 18 MSA licenses by lottery in 1993 (see Interactive Video and Data Service Licenses Granted, *Public Notice*, Mimeo No. 42,412 (rel. Mar. 30, 1994)), and conducted an auction for the remaining MSA licenses in 1994. See Auction No. 2, “Announcing High Bidders For 594 Interactive Video And Data Service (IVDS) Licenses,” *Public Notice*, Mimeo No. 44,160 (rel. Aug. 2, 1994). No RSA licenses have been issued to date.

¹⁰ For some of the orders and related rules associated with the Phase II 220 MHz service auction, see In the Matter of Amendment of Part 90 of the Commission’s Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PR Docket No. 89-552, RM 8506, GN Docket No. 93-252, PP Docket No. 93-253, *Third Report and Order and Fifth Notice of Proposed Rulemaking*, FCC 97-57, 12 FCC Rcd 10,943 (1997), *modified on recon.*, FCC 98-93, 13 FCC Rcd 14,569 (1998); In the Matter of Amendment of Part 90 of the Commission’s Rules to Provide For the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-

9. Licensees in the 220 MHz Service will be able to use this spectrum to provide voice, data, paging, and fixed operations.¹¹

10. The following table describes the 220 MHz Service licenses that will be offered in Auction 89.

Block	Bandwidth	Pairing	Geographic Area Type	No. of Licenses
A	100 kHz	2 x 50 kHz	EA	92
B	100 kHz	2 x 50 kHz	EA	94
C	100 kHz	2 x 50 kHz	EA	90
D	100 kHz	2 x 50 kHz	EA	89
E	100 kHz	2 x 50 kHz	EA	79
F	150 kHz	2 x 75 kHz	EAG	1
H	150 kHz	2 x 75 kHz	EAG	1
I	150 kHz	2 x 75 kHz	EAG	2

For the specific frequencies of licenses in each block refer to Attachment A - Part 2. Licenses in blocks A-E have 10 paired 5 kHz channels, and licenses in blocks F-I have 15 paired 5 kHz channels. None of the licenses offered in Auction 89 have contiguous channels except for the E block licenses.

11. Certain licenses being offered in Auction 89 are available for only part of the geographic license area listed in the table above because some previously-auctioned 220 MHz licenses were partitioned. In addition, four of these licenses available for only part of the geographic license area also cover less bandwidth than noted in the table above due to previous disaggregation. The 220 MHz Service licenses available in this auction are listed and are more fully described in Attachment A to this Public Notice.

B. Incumbency Issues

1. 218-219 MHz Licenses

12. The Commission has authorized certain site-based, low power operations on a secondary basis in the 216-220 MHz band.¹² There are also incumbent geographic area 218-219 MHz Service licenses in certain CMAs. Additional information on those licenses may be found through the Commission's Universal Licensing System ("ULS").¹³

552, *Fourth Report and Order*, FCC 97-225, 12 FCC Rcd 13,453 (1997); In the Matter of Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services-Geographic Partitioning and Spectrum Disaggregation for the 220-222 MHz Service, PR Docket No. 89-552, GN Docket No. 93-252, *Fifth Report and Order*, FCC 98-186, 13 FCC Rcd 24,615 (1998) and *Memorandum Opinion and Order*, FCC 00-102, 15 FCC Rcd 5919 (2000), *vacated and superseded by Memorandum Opinion and Order*, FCC 00-187, 15 FCC Rcd 13,924 (2000).

¹¹ See 47 C.F.R. § 90.733.

¹² See 47 C.F.R. § 90.259(a) (secondary low power authorizations for 216-220 MHz band).

¹³ ULS, which is available at <http://wireless.fcc.gov/uls>, allows electronic filing of applications processed by the Commission. ULS also provides the ability to search for applications or licenses by various criteria.

2. 220 MHz Licenses

13. A number of incumbent Phase I (site-based) 220 MHz licensees are licensed and operating on frequencies between 220 and 222 MHz.¹⁴ Such Phase I incumbents must be protected from harmful interference by Phase II 220 MHz licensees in accordance with the Commission's rules.¹⁵ These limitations may restrict the ability of Phase II geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. There are also incumbent geographic area 220 MHz licenses in certain EAs and EAGs. Additional information on those licenses may be found through ULS.¹⁶

III. BUREAU SEEKS COMMENT ON AUCTION PROCEDURES

14. Section 309(j)(3) of the Communications Act of 1934, as amended, requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed . . . before issuance of bidding rules, to permit notice and comment on proposed auction procedures . . ." ¹⁷ Consistent with the provisions of Section 309(j)(3) and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction.¹⁸ We therefore seek comment on the following issues relating to Auction 89.

A. Auction Design

1. Auction Format

15. We propose to auction all licenses included in Auction 89 using the Commission's standard simultaneous multiple-round ("SMR") auction format. As described further below, this type of auction offers every license for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual licenses. Typically, bidding remains open on all licenses until bidding stops on every license. We seek comment on this proposal.

¹⁴ See 47 C.F.R. § 90.745 (Phase I license service areas).

¹⁵ See 47 C.F.R. § 90.763(b).

¹⁶ See footnote 13, above.

¹⁷ 47 U.S.C. § 309(j)(3)(E)(i).

¹⁸ See Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, *Third Report and Order and Second Further Notice of Proposed Rule Making*, FCC 97-413, 13 FCC Rcd 374, 448 ¶¶ 124-25 (1997) ("*Part 1 Third Report and Order*") (directing the Bureau to seek comment on specific mechanisms related to day-to-day auction conduct including, for example, the structure of bidding rounds and stages, establishment of minimum opening bids or reserve prices, minimum acceptable bids, initial maximum eligibility for each bidder, activity requirements for each stage of the auction, activity rule waivers, criteria for determining reductions in eligibility, information regarding bid withdrawal and bid removal, stopping rules, and information relating to auction delay, suspension or cancellation). See also 47 C.F.R. § 0.131; Amendment of Part 1 of the Commission's Rules — Competitive Bidding Proceeding, WT Docket No. 97-82, *Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, FCC 97-60, 12 FCC Rcd 5686, 5697-98 ¶ 16 (1997) ("*Part 1 Order*").

2. Anonymous Bidding

16. The Commission's standard practice in recent auctions of licenses for wireless services has been to implement procedures to limit the disclosure of certain bidder-specific information until after the close of the auction.¹⁹ Consistent with that practice, the Bureau proposes to conduct Auction 89 using certain procedures for limited information disclosure, or "anonymous bidding." Specifically, the Bureau proposes to withhold, until after the close of bidding, public release of (1) bidders' license selections on their short-form applications (FCC Form 175); (2) the amounts of bidders' upfront payments and bidding eligibility; and (3) information that may reveal the identities of bidders placing bids and taking other bidding-related actions.

17. Under these proposed limited information procedures, the amount of every bid placed and whether a bid was withdrawn would be disclosed after the close of every round, but the identities of bidders placing or withdrawing specific bids and the net bid amounts would not be disclosed until after the close of the auction.

18. Bidders would have access to additional information about their own bids. For example, bidders would be able to view their own level of eligibility, before and during the auction, through the Commission's Integrated Spectrum Auction System ("ISAS" or "FCC Auction System").

19. Moreover, for the purpose of complying with section 1.2105(c), the Commission's rule prohibiting certain communications between applicants (sometimes referred to as the "anti-collusion rule"), applicants would be made aware of other applicants with which they will not be permitted to cooperate, collaborate, or communicate, including discussing bids or bidding strategies.²⁰ Specifically, the Bureau would notify separately each applicant in Auction 89 whether applicants with short-form applications to participate in pending auctions, including but not limited to Auction 89, have applied for licenses in any of the same or overlapping geographic areas as that applicant.

20. After the close of bidding, bidders' license selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related actions would be made publicly available.

21. We seek comments on our proposal to implement anonymous bidding in Auction 89. We also seek comment on alternatives to the use of anonymous bidding procedures for Auction 89. When the Commission proposed limited information disclosure procedures for the first time, it did so in response to analysis suggesting that under certain circumstances the competitiveness and economic efficiency of an SMR auction may be enhanced if such information is withheld until after the close of the auction.²¹ The Bureau encourages parties to provide information about the benefits and costs of complying with limited information

¹⁹ See, e.g., "Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Reserve Prices, Upfront Payments, and Other Procedures for Auctions 73 and 76," *Public Notice*, DA 07-4171, 22 FCC Rcd 18,141, 18,181-85 ¶¶ 145-156 (WTB 2007); "Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 66," *Public Notice*, FCC 06-47, 21 FCC Rcd 4562, 4600-05 ¶¶ 140-157 (2006).

²⁰ See 47 C.F.R. § 1.2105(c).

²¹ "Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Procedures" *Public Notice*, DA 06-238, 21 FCC Rcd 794, 799 (2006).

procedures as compared with the benefits and costs of alternative procedures that would provide for the disclosure of more information on bidder identities and interests in the auction. If commenters believe that the Bureau should not adopt procedures to limit the disclosure of certain bidder-specific information until after the auction, they should explain their reasoning.

B. Auction Structure

1. Round Structure

22. Auction 89 will consist of sequential bidding rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction.

23. The Commission will conduct Auction 89 over the Internet, and telephonic bidding will be available as well. The toll-free telephone number for the Auction Bidder Line will be provided to qualified bidders.

24. The Bureau proposes to retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. Under this proposal, the Bureau may change the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. The Bureau seeks comment on this proposal. Commenters may wish to address the role of the bidding schedule in managing the pace of the auction and the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirements or bid amount parameters, or by using other means.

2. Stopping Rule

25. The Bureau has discretion to "establish stopping rules before or during multiple round auctions in order to terminate the auctions within a reasonable time."²² For Auction 89, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses. More specifically, bidding will close simultaneously on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids.²³ Thus, unless the Bureau announces alternative stopping procedures, bidding will remain open on all licenses until bidding stops on every license. Consequently, it is not possible to determine in advance how long the auction will last.

26. Further, the Bureau proposes to retain the discretion to exercise any of the following options during Auction 89:

- a) Use a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, withdraws a provisionally winning bid, or places any new bids on any license for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

²² 47 C.F.R. § 1.2104(e).

²³ Proactive waivers are described in Section III.C.3. "Activity Rule Waivers and Reducing Eligibility," provisionally winning bids are defined in Section III.C.6. "Provisionally Winning Bids," and bid withdrawals are described in Section III.C.8. "Bid Withdrawal," below.

- b) Declare that the auction will end after a specified number of additional rounds (“special stopping rule”). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) after which the auction will close.
- c) Keep the auction open even if no bidder submits any new bids, applies a waiver, or withdraws any provisionally winning bids. In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a waiver.

27. The Bureau proposes to exercise these options only in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising certain of these options, the Bureau is likely to attempt to change the pace of the auction by, for example, changing the number of bidding rounds per day and/or changing minimum acceptable bids. The Bureau proposes to retain the discretion to exercise any of these options with or without prior announcement during the auction. We seek comment on these proposals.

3. Information Relating to Auction Delay, Suspension, or Cancellation

28. For Auction 89, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding.²⁴ In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

C. Auction Procedures

1. Upfront Payments and Bidding Eligibility

29. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned.²⁵ A bidder’s upfront payment is a refundable deposit to establish eligibility to bid on licenses. Upfront payments related to the licenses for specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction.²⁶

²⁴ 47 C.F.R. § 1.2104(i).

²⁵ See *Part 1 Order*, 12 FCC Rcd at 5697-98 ¶ 16. See also *Part 1 Third Report and Order*, 13 FCC Rcd at 425 ¶ 86; Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2378-79 ¶¶ 171-75 (1994) (“*Competitive Bidding Second Report and Order*”).

²⁶ See *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2378-79 ¶¶ 171-76.

30. For Auction 89, we propose to make the upfront payments equal to the minimum opening bids, which are established as described in Section III.C.4., below. The specific upfront payments for each license are listed in Attachment A. We seek comment on this proposal.

31. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the bidder's initial bidding eligibility in bidding units. The Bureau proposes that each license be assigned a specific number of bidding units equal to the upfront payment listed for the license, on a bidding unit per dollar basis.²⁷ The specific bidding units for each license are listed in Attachment A. The number of bidding units for a given license is fixed and does not change during the auction as prices rise. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses it selected on its short-form application (FCC Form 175) as long as the total number of bidding units associated with those licenses does not exceed its current eligibility.

32. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that total number of bidding units. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round.²⁸

33. The Bureau seeks comment on these proposals.

2. Activity Rule

34. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. A bidder's activity in a round will be the sum of the bidding units associated with any licenses upon which it places bids during the current round and the bidding units associated with any licenses for which it holds provisionally winning bids. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.²⁹

35. The Bureau proposes to divide the auction into at least two stages, each characterized by a different activity requirement.³⁰ The auction will start in Stage One. The Bureau proposes to advance the auction to the next stage by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of auction activity, including but not limited to the percentage of licenses (as measured in bidding units) on which

²⁷ "Former Defaulters" — *i.e.*, applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that in the past have defaulted on any Commission license or been delinquent on any non-tax debt owed to any Federal agency, but that have prior to the short-form application filing deadline remedied all such defaults and cured all of their outstanding non-tax delinquencies — are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts for the same number of bidding units. 47 C.F.R. § 1.2106(a).

²⁸ See Section III.C. 6. "Provisionally Winning Bids," below.

²⁹ See Section III C.3. "Activity Rule Waivers and Reducing Eligibility," below.

³⁰ See 47 C.F.R. § 1.2104(f).

there are new bids,³¹ the number of new bids, and the increase in revenue. The Bureau seeks comment on these proposals.

36. The Bureau proposes the following activity requirements, while noting again that the Bureau retains the discretion to change stages unilaterally by announcement during the auction:

Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage One, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by five-fourths (5/4).

Stage Two: In each round of the second stage, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage Two, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by twenty-nineteenths (20/19).

37. Under this proposal, the Bureau will retain the discretion to change the activity requirements during the auction. For example, the Bureau could decide not to transition to Stage Two if it believes the auction is progressing satisfactorily under the Stage One activity requirement, to transition to Stage Two with an activity requirement that is higher or lower than the 95 percent proposed herein, or to add an additional stage with a higher activity requirement.³² If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC Auction System.

3. Activity Rule Waivers and Reducing Eligibility

38. Use of an activity rule waiver preserves the bidder's eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding, not to particular licenses. Activity rule waivers can be either proactive or automatic and are principally a mechanism for bidders to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from bidding in a particular round.

39. The FCC Auction System assumes that a bidder not meeting the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless (1) the bidder has no activity rule waivers remaining, or (2) the bidder overrides the automatic application of a

³¹ For example, when monitoring activity for determining when to change stages, the Bureau may consider the percentage of bidding units of the licenses receiving new provisionally winning bids, excluding any FCC-held licenses. In past auctions, the Bureau has generally changed stages when this measure was approximately twenty percent or below for three consecutive rounds of bidding.

³² If the Bureau implements stages with activity requirements other than the ones listed above, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by the reciprocal of the activity requirement. For example, with a 98 percent activity requirement, the bidder's current round activity would be multiplied by 50/49; with a 100 percent activity requirement, the bidder's current round activity would become its bidding eligibility (current round activity would be multiplied by 1/1).

waiver by reducing eligibility, thereby meeting the activity requirement. If a bidder has no waivers remaining and does not satisfy the required activity level, its eligibility will be permanently reduced, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

40. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the "reduce eligibility" function in the FCC Auction System. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rule as described above. Reducing eligibility is an irreversible action. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility, even if the round has not yet closed.

41. Under the proposed simultaneous stopping rule, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity rule waiver (using the "apply waiver" function in the FCC Auction System) during a bidding round in which no bids are placed or withdrawn, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver applied by the FCC Auction System in a round in which there are no new bids, withdrawals, or proactive waivers will not keep the auction open. A bidder cannot apply a proactive waiver after bidding in a round, and applying a proactive waiver will preclude a bidder from placing any bids in that round.³³ Applying a waiver is irreversible; once a proactive waiver is submitted, that waiver cannot be unsubmitted, even if the round has not yet closed.

42. Consistent with recent auctions of wireless spectrum, the Bureau proposes that each bidder in Auction 89 be provided with three activity rule waivers that may be used as set forth above at the bidder's discretion during the course of the auction. The Bureau seeks comment on this proposal.

4. Reserve Price or Minimum Opening Bids

43. Section 309(j) calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid amount when FCC licenses are subject to auction, unless the Commission determines that a reserve price or minimum opening bid amount is not in the public interest.³⁴ Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid amount and/or reserve price prior to the start of each auction.³⁵

44. Normally, a reserve price is an absolute minimum price below which an item will not be sold. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer may have the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

³³ In general, once a bidder places a proactive waiver during a round, the FCC Auction System does not allow the bidder to take any other bidding-related action, including placing or withdrawing bids later in that round.

³⁴ 47 U.S.C. § 309(j)(4)(F). *See also* 47 C.F.R. § 1.2104(c) and (d).

³⁵ *Part 1 Third Report and Order*, 13 FCC Rcd at 455-56 ¶ 141. *See also* 47 C.F.R. § 1.2104(c).

45. In light of Section 309(j)'s requirements, the Bureau proposes to establish minimum opening bid amounts for Auction 89. The Bureau believes a minimum opening bid amount, which has been used in other auctions, is an effective bidding tool for accelerating the competitive bidding process. The Bureau does not propose a separate reserve price for the licenses to be offered in Auction 89.

a. 218-219 MHz Licenses

46. For 218-219 MHz licenses offered in Auction 89, the Bureau proposes to calculate minimum opening bid amounts on a license-by-license basis using a formula based on bandwidth and license area population:³⁶

$\$.01 * \text{MHz} * \text{license area population}$ with a minimum of \$500 per license³⁷

47. The resulting minimum opening bid amount proposed for each 218-219 MHz license available in Auction 89 is set forth in Attachment A of this Public Notice.

b. 220 MHz Licenses

48. For 220 MHz licenses offered in Auction 89, the Bureau proposes to calculate minimum opening bid amounts on a license-by-license basis as follows:

EA Licenses	\$500 per license
EAG Licenses	$\$.01 * \text{MHz} * \text{license area population}$ ³⁸

49. The minimum opening bid amount proposed for each 220 MHz license available in Auction 89 is set forth in Attachment A of this Public Notice.

50. The Bureau seeks comment on all of the above proposals concerning minimum opening bids. If commenters believe that these minimum opening bid amounts will deter substantial numbers of bidders from placing bids on licenses, or are not reasonable amounts, or should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid amount levels or formulas. In establishing minimum opening bid amounts, we particularly seek comment on such factors as the amount of spectrum being auctioned, levels of incumbency within these spectrum bands, the availability of technology to provide service, the size of the service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the licenses being auctioned. The Bureau seeks comment on this approach, and on whether, consistent with Section 309(j), the public interest would be served by having no minimum opening bid amount or reserve price.

³⁶ All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. See Census 2000 Summary File 1 and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

³⁷ Results are rounded using our standard rounding procedure: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

³⁸ See notes 36 and 37 (concerning population figures and rounding), above.

5. Bid Amounts

51. The Bureau proposes that, in each round, eligible bidders be able to place a bid on a given license using one or more pre-defined bid amounts.³⁹ Under this proposal, the FCC Auction System interface will list the acceptable bid amounts for each license.⁴⁰ The Bureau proposes to calculate bid amounts as described below.

a. Minimum Acceptable Bids

52. The first of the acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until there is a provisionally winning bid on the license. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus a percentage of that bid amount calculated using the formula described below. In general, the percentage will be higher for a license receiving many bids than for a license receiving few bids. In the case of a license for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the license.⁴¹

53. The percentage of the provisionally winning bid used to establish the minimum acceptable bid amount (“the additional percentage”) is calculated at the end of each round, based on an activity index. The activity index is a weighted average of (a) the number of distinct bidders placing a bid on the license, and (b) the activity index from the prior round. Specifically, the activity index is equal to a weighting factor times the number of bidders placing a bid covering the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round.⁴² The additional percentage is determined as one plus the activity index times a minimum percentage amount, with the result not to exceed a given maximum. The additional percentage is then multiplied by the provisionally winning bid amount to obtain the minimum acceptable bid for the next round.⁴³ The Bureau proposes initially to set the weighting factor at 0.5, the minimum percentage at 0.1 (10%), and the maximum percentage at 0.3 (30%). Hence, at these initial settings, the minimum acceptable bid for a license will be between ten percent and thirty percent higher than the provisionally winning bid, depending upon the bidding activity for the license. Equations and examples are shown in Attachment B.

b. Additional Bid Amounts

54. The Bureau proposes to allow no additional bid amounts per license. Thus, the minimum acceptable bid would be the only bid amount available in the FCC Auction System interface for each license. The Bureau seeks comment on this proposal. The Bureau also seeks comment on whether, in the alternative, to allow more bid amounts per license in a given round, and if so, how many – up to a maximum of eight additional bid amounts (for a total of nine bid

³⁹ Bidders must have sufficient eligibility to place a bid on the particular license. *See* Section III.C.1. “Upfront Payments and Bidding Eligibility,” above.

⁴⁰ In the event of duplicate bid amounts due to rounding, the FCC Auction System will omit the duplicates and will list fewer acceptable bid amounts for the license.

⁴¹ *See* Section III.C.8. “Bid Withdrawal,” below.

⁴² For Round 1 calculations, because there is no prior round (*i.e.*, no round 0), the activity index from the prior round is set at 0.

⁴³ *See* note 37 (concerning rounding), above.

amounts). In particular, commenters should address the issue of additional bid amounts in light of particular circumstances of Auction 89, including the nature of the license inventory.

55. If the Bureau allows additional bid amounts, it proposes to calculate any additional bid amounts using the minimum acceptable bid amount and a bid increment percentage – more specifically, by multiplying the minimum acceptable bid by one plus successively higher multiples of the bid increment percentage. If, for example, the bid increment percentage is five percent, the calculation of the first additional acceptable bid amount is (minimum acceptable bid amount) * (1 + 0.05), or (minimum acceptable bid amount) * 1.05; the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, or (minimum acceptable bid amount) * 1.1, etc.⁴⁴ If the Bureau allows additional bid amounts, it proposes to set the bid increment percentage at 0.05 (5%).

56. The Bureau retains the discretion to change the minimum acceptable bid amounts, the number of acceptable bid amounts, the additional bid amounts, and the parameters of the formulas used to calculate minimum acceptable bid amounts and additional bid amounts if the Bureau determines that circumstances so dictate. Further, the Bureau retains the discretion to make such changes on a license-by-license basis.

57. The Bureau also retains the discretion to limit (a) the amount by which a minimum acceptable bid for a license may increase compared with the corresponding provisionally winning bid, and (b) the amount by which any additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, the Bureau could set a \$1 million limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if the activity-based formula calculates a minimum acceptable bid amount that is \$2 million higher than the provisionally winning bid on a license, the minimum acceptable bid amount would instead be capped at \$1 million above the provisionally winning bid. We seek comment on the circumstances under which the Bureau should employ such a limit, factors we should consider when determining the dollar amount of the limit, and the tradeoffs in setting such a limit or changing parameters of the activity-based formula, such as changing the minimum percentage. If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC Auction System.

58. The Bureau seeks comment on the above proposals. Commenters may wish to address the role of the minimum acceptable bids and the number of acceptable bid amounts in managing the pace of the auction and the tradeoffs in managing auction pace by changing the bidding schedule, activity requirements, or bid amount parameters, or by using other means.

6. Provisionally Winning Bids

59. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. At the end of a bidding round, a provisionally winning bid for each license will be determined based on the highest bid amount received for the license. In the event of identical high bid amounts being submitted on a license in a given round (i.e., tied bids), we will use a random number generator to select a single provisionally winning bid from among the tied bids. (Each bid is assigned a random number, and the tied bid with the highest random number wins the tiebreaker.) The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to

⁴⁴ See note 37 (concerning rounding), above.

end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If any bids are received on the license in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the license.

60. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the license at the close of a subsequent round, unless the provisionally winning bid is withdrawn. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.⁴⁵

7. Bid Removal

61. For Auction 89, the Bureau proposes and seeks comment on the following bid removal procedures. Before the close of a bidding round, a bidder has the option of removing any bid placed in that round. By removing selected bids in the FCC Auction System, a bidder may effectively “undo” any of its bids placed within that round. In contrast to the bid withdrawal provisions described below, a bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

8. Bid Withdrawal

62. A bidder may withdraw its provisionally winning bids using the “withdraw bids” function in the FCC Auction System. A bidder that withdraws its provisionally winning bid(s) is subject to the bid withdrawal payment provisions of the Commission rules.⁴⁶

63. In the *Part 1 Third Report and Order*, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of backup strategies as information becomes available during the course of an auction.⁴⁷ The Commission noted, however, that in some instances bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion in managing the auction to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular license or geographic area if the Bureau finds that a bidder is abusing the Commission’s bid withdrawal procedures.⁴⁸

64. For Auction 89, we propose to limit each bidder to withdrawing provisionally winning bids in only one round during the course of the auction. To permit a bidder to withdraw bids in more than one round may encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The round in which withdrawals may be used will be at the bidder’s discretion, and there is no limit on the number of provisionally winning bids that may be withdrawn during that round. Withdrawals must be in accordance with the Commission’s rules, and are subject to the bid withdrawal payment provisions specified in section 1.2104(g).⁴⁹ The Bureau seeks comment on these bid withdrawal procedures. If commenters believe that each bidder should be allowed to withdraw provisionally winning bids in more than one round during

⁴⁵ See Section III.C.2. “Activity Rule,” above.

⁴⁶ 47 C.F.R. §§ 1.2104(g) and 1.2109.

⁴⁷ *Part 1 Third Report and Order*, 13 FCC Rcd at 459-60 ¶ 150.

⁴⁸ *Id.*

⁴⁹ See 47 C.F.R. § 1.2104(g).

the course of the auction, or should not be permitted to withdraw any bids, they should state how many bid withdrawal rounds they seek and explain what specific factors lead them to that conclusion.

D. Post-Auction Procedures

1. Establishing the Interim Withdrawal Payment Percentage

65. We seek comment on the appropriate percentage of a withdrawn bid that should be assessed as an interim withdrawal payment in the event that a final withdrawal payment cannot be determined at the close of the auction. In general, the Commission's rules provide that a bidder that withdraws a bid during an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or subsequent auction(s).⁵⁰ If a bid is withdrawn and no subsequent higher bid is placed and/or the license is not won in the same auction, the final withdrawal payment cannot be calculated until after the close of a subsequent auction in which a higher bid for the license (or the equivalent to the license) is placed or the license is won.⁵¹ When that final payment cannot yet be calculated, the bidder that withdrew the bid is assessed an interim bid withdrawal payment, which will be applied toward any final bid withdrawal payment that is ultimately assessed.⁵² Section 1.2104(g)(1) of the Commission rules requires that the percentage of the withdrawn bid to be assessed as an interim bid withdrawal payment be between three percent and twenty percent and that it be set in advance of the auction.⁵³

66. The Commission has determined that the level of the interim withdrawal payment in a particular auction will be based on the nature of the service and the inventory of the licenses being offered.⁵⁴ The Commission has noted that it may impose a higher interim withdrawal payment percentage to deter the anti-competitive use of withdrawals when, for example, bidders likely will not need to aggregate the licenses being offered in the auction, such as when few licenses are offered that are on adjacent frequencies or in adjacent areas, or when there are few synergies to be captured by combining licenses.⁵⁵

67. With respect to the licenses being offered in Auction 89, the service rules permit a variety of fixed, mobile, and paging services, though the opportunities for combining licenses on adjacent frequencies or in adjacent areas are limited in some cases. Balancing the potential need for bidders to use withdrawals to avoid winning incomplete combinations of licenses with the Bureau's interest in deterring undesirable strategic use of withdrawals, the Bureau proposes a percentage below the maximum twenty percent permitted under the current rules but above the three percent previously provided by the Commission's rules. Specifically, the Bureau proposes

⁵⁰ See 47 C.F.R. § 1.2104(g)(1). The withdrawal payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission. No withdrawal payment is assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid. *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ See *id.*, as amended by 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, 21 FCC Rcd 891, 903 ¶ 30 (2006) ("*CSEA/Part 1 Report and Order*").

⁵⁴ See *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 903-04 ¶ 31.

⁵⁵ See *id.* at 904 n.57.

to establish an interim bid withdrawal payment of ten percent of the withdrawn bid for this auction. The Bureau seeks comment on this proposal. If commenters advocate the use of a different percentage they should provide relevant support including information on the likelihood that bidders will need to aggregate licenses on adjacent frequencies or in adjacent areas.

2. Establishing the Additional Default Payment Percentage

68. Any winning bidder that, after the close of an auction, defaults – by, for example, failing to remit the required down payment within the prescribed period of time, failing to submit a timely long-form application, or failing to make full payment – or is otherwise disqualified is liable for a default payment under section 1.2104(g)(2) of the Commission’s rules.⁵⁶ 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.

69. Under section 1.2104(g)(2), the Commission will, in advance of each auction without combinatorial or package bidding, establish an additional default payment for that auction of three percent up to a maximum of twenty percent.⁵⁷ The level of this payment in each case will be based on the nature of the service and the inventory of the licenses being offered.⁵⁸

70. For Auction 89, the Bureau proposes to establish an additional default payment of fifteen percent. As noted in the *CSEA/Part 1 Report and Order*, defaults weaken the integrity of the auction process and impede the deployment of service to the public, and an additional default payment of more than three percent will be more effective in deterring defaults. Given the history of these services and the inventory of the licenses being offered in Auction 89, we believe that an additional default payment percentage of fifteen percent will provide a sufficient deterrent to defaults. The Bureau seeks comment on this proposal.

IV. COMMENTS AND EX PARTE RULES

71. Comments are due on or before June 15, 2010, and reply comments are due on or before June 29, 2010. All filings related to the auction of these 218-219 MHz and Phase II 220 MHz Services licenses (Auction 89) should refer to AU Docket No. 10-107. Comments may be submitted using the Commission’s Electronic Comment Filing System (“ECFS”) or by filing paper copies.⁵⁹ The Bureau strongly encourages interested parties to file comments electronically, and requests submission of a copy via the Auction 89 e-mail box (auction89@fcc.gov).

72. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS at <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and AU Docket No. 10-107. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions,

⁵⁶ 47 C.F.R. § 1.2104(g)(2).

⁵⁷ *Id.*

⁵⁸ See *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 903-04 ¶¶ 30-31.

⁵⁹ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, FCC 98-56, 13 FCC Rcd 11,322 (1998).

filers should send an e-mail to ecfs@fcc.gov, and include “get form” in the body of the message. A sample form and directions will be sent in response.

73. Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission, and should reference AU Docket No. 10-107.

- The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at the FCC Headquarters building located at 445 12th Street, SW, Room TW-A325, Washington DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. Eastern Time (ET). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

74. Auction 89 E-mail Box: The Bureau also requests that a copy of all comments and reply comments be submitted electronically to the following address: auction89@fcc.gov.

75. Copies of comments and reply comments will be available for public inspection and copying between 8:00 a.m. and 4:30 p.m. ET Monday through Thursday or 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554, and will also be accessible through the search function on the ECFS web page at <http://www.fcc.gov/cgb/ecfs/>. A paper copy of any document relating to Auction 89 may also be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc. (“BCPI”), 445 12th Street, SW, Room CY-B402, Washington, DC 20554, 800-378-3160, or at <http://www.bcpiweb.com>.⁶⁰

76. This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules.⁶¹ Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission’s rules.⁶²

V. CONTACTS

77. For further information concerning this proceeding, contact the Wireless Telecommunications Bureau, as listed below:

⁶⁰ When ordering documents from BCPI, please provide the appropriate FCC document number (for example, DA 10-849 for this Public Notice).

⁶¹ 47 C.F.R. §§ 1.1200(a), 1.1206.

⁶² 47 C.F.R. § 1.1206(b).

Mobility Division, Wireless Telecommunications Bureau

For service rule questions: Michael Connelly (legal) or Melvin Spann (technical), at
(202) 418-0620

Auctions and Spectrum Access Division, Wireless Telecommunications Bureau

For general auction questions: Debbie Smith or Lisa Stover at (717) 338-2868
For auctions legal questions: Sayuri Rajapakse at (202) 418-0660

78. To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

- FCC -

DA 10-849
Attachment A

Licenses to Be Offered in Auction 89

This page was intentionally inserted as a placeholder for Attachment A, which is available as separate files.

DA 10-849
Attachment B

Minimum Acceptable Bid Formula

The following formula used to calculate minimum acceptable bids is based on activity. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus a percentage of that bid amount calculated using the formula below. In general, the percentage will be higher for a license receiving many bids than for a license receiving few bids.

$$A_i = (C * B_i) + ((1-C) * A_{i-1})$$

$$I_{i+1} = \text{smaller of } ((1 + A_i) * N) \text{ and } M$$

$$X_{i+1} = I_{i+1} * Y_i$$

where

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bidders submitting bids on the licenses in the current round (round i)

A_{i-1} = activity index from previous round (round i-1), A_0 is 0

I_{i+1} = additional percentage for the next round (round i+1)

N = minimum additional percentage or floor

M = maximum additional percentage or ceiling

X_{i+1} = additional dollar amount

Y_i = provisionally winning bid amount from the current round

Examples

$$C = 0.5, N = 0.1, M = 0.3$$

Round 1 (1 bidder submitting bids, provisionally winning bid = \$1,000,000)

1. Calculation of additional percentage for round 2:

$$A_1 = (0.5 * 1) + (0.5 * 0) = 0.5$$

$$I_2 = \text{The smaller of } [(1 + 0.5) * 0.1] = 0.15 \text{ and } 0.3 \text{ (the maximum additional percentage)}$$
$$= 0.15$$

2. Calculation of dollar amount associated with the additional percentage for round 2 (using I_2 from above):

$$X_2 = 0.15 * \$1,000,000 = \$150,000$$

3. Minimum acceptable bid amount for round 2 = \$1,150,000

Round 2 (3 bidders submitting bids, provisionally winning bid = \$2,000,000)

1. Calculation of additional percentage for round 3:

$$A_2 = (0.5 * 3) + (0.5 * 1) = 2$$

$$I_3 = \text{The smaller of } [(1 + 2) * 0.1] = 0.3 \text{ and } 0.3 \text{ (the maximum additional percentage)}$$
$$= 0.03$$

2. Calculation of dollar amount associated with the additional percentage for round 3 (using I3 from above):

$$X_3 = 0.2 * \$2,000,000 = \$400,000$$

3. Minimum acceptable bid amount for round 3 = \$2,400,000

Round 3 (1 bidder submitting bids, provisionally winning bid = \$2,400,000)

1. Calculation of additional percentage for round 4:

$$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$$

$$I_4 = \text{The smaller of } [(1 + 1.5) * 0.1] = 0.25 \text{ and } 0.3 \text{ (the maximum additional percentage)}$$
$$= 0.25$$

2. Calculation of dollar amount associated with the additional percentage for round 4 (using I4 from above):

$$X_4 = 0.2 * \$2,400,000 = \$480,000$$

3. Minimum acceptable bid amount for round 4 = \$2,880,000