



PUBLIC NOTICE

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AUCTION OF 700 MHz BAND LICENSES 19 BIDDERS QUALIFIED TO PARTICIPATE IN AUCTION 92

AU Docket No. 10-248

1. In this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) identifies 19 applicants found to be qualified to bid in the upcoming auction of 16 licenses in the 700 MHz Band (Auction 92). Bidding in Auction 92 is scheduled to begin on Tuesday, July 19, 2011.¹ This Public Notice contains bidding instructions and other important information regarding Auction 92. It also addresses the continuing obligations and auction procedures for all Auction 92 applicants, including those that have not qualified to bid.

I. QUALIFIED BIDDERS AND APPLICANTS NOT QUALIFIED TO BID

A. Qualified Bidders

2. Attachment A to this Public Notice lists the name of each of the 19 qualified bidders and each qualified bidder’s claimed bidding credit revenue range, if any.² Designation of an applicant as qualified to bid in the auction indicates that the applicant has provided the certifications and information concerning its qualifications for participation in the auction and timely submitted a sufficient upfront payment as required by the Commission’s competitive bidding rules.³

¹ See “Auction of 700 MHz Band Licenses Scheduled for July 19, 2011: Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 92,” AU Docket No. 10-248, *Public Notice*, DA 11-420, 26 FCC Rcd 3342 (2011) (“*Auction 92 Procedures Public Notice*”). See also “Auction of 700 MHz Band Licenses: Status of Short-Form Applications to Participate in Auction 92,” AU Docket No. 10-248, *Public Notice*, DA 11-986 (rel. June 8, 2011) (“*Auction 92 Status Public Notice*”).

² After the initial application filing deadline, one applicant reported that its corporate name had been incorrectly entered on its short-form application as initially filed and requested that the applicant name be changed from Mc Spectrum Partners, LLC to McBride Spectrum Partners, LLC. The FCC Auction System records have been revised and this applicant is now listed as McBride Spectrum Partners, LLC in the FCC Auction System and this Public Notice.

³ Under the Commission’s two-phased auction application process, a winning bidder must submit a long-form application after the close of Auction 92 to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the requested bidding credit. Thus, a determination that a short-form application is complete and complies with the Commission’s competitive bidding rules and policies is not determinative of an applicant’s qualifications to hold a license or entitlement to a bidding credit. See 47 C.F.R. §§ 1.2107 – 1.2109; see also 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, 2376-77 ¶¶ 163-168 (1994). Any

3. In order to participate effectively in the auction, each qualified bidder should again review the auction rules, procedures, and other information described in the *Auction 92 Procedures Public Notice* and subsequent public notices.⁴ These public notices and other documents related to Auction 92 are available on the Commission's auctions website at <http://wireless.fcc.gov/auctions/>. This Public Notice provides additional guidance.

B. Applicants Not Qualified to Bid

4. Attachment B to this Public Notice lists each applicant that submitted a short-form application but did not qualify to bid in this auction. These applicants remain subject to the Commission's rules prohibiting certain communications in connection with Commission auctions.⁵

II. REGISTRATION AND BIDDING ACCESS

A. Registration Materials

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

- At least two RSA SecurID[®] tokens
- Integrated Spectrum Auction System (ISAS) Bidder's Guide
- FCC Auction Bidder Line phone number

6. Each qualified bidder is solely responsible for ensuring the security of its computer systems and its registration materials and for ensuring that only authorized bidders place bids on its behalf. The Commission assumes no responsibility or liability for these matters.

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

7. Any qualified bidder listed in Attachment A of this Public Notice that has not received the registration mailing **by 12:00 noon Eastern Time (ET) on Wednesday, July 13, 2011**, must contact the Auctions Hotline directly at (717) 338-2868. Qualified bidders must have these registration materials to submit bids. Receipt of the registration mailing is critical to participating in both the mock auction and the actual auction, and it is the responsibility of each qualified bidder to ensure that all registration information has been received.

B. Registration Material Replacement

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

C. Bidding Access

9. The Commission will conduct Auction 92 over the Internet. Each qualified bidder can access the Integrated Spectrum Auction System ("ISAS" or "FCC Auction System") at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. A bidder choosing to bid electronically should review the Integrated Spectrum

request concerning an applicant's qualifications and eligibility for a bidding credit is generally considered after the auction during the long-form application review process. In the event that an applicant is found unqualified to be a Commission licensee or ineligible for a claimed bidding credit, it will be liable for any obligations incurred as a result of its participation in the auction. *See generally* 47 C.F.R. § 1.2109.

⁴ *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3342; *see also Auction 92 Status Public Notice*.

⁵ *See* 47 C.F.R. § 1.2105(c); *see also Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3345-50 ¶¶ 7-27.

Auction System (ISAS) Bidder's Guide provided in the registration materials. Please note that Apple® Mac OS® is not currently supported.

10. In addition to bidding electronically over the Internet, a qualified bidder will also have the option of bidding by telephone via the Auction Bidder Line. The Auction Bidder Line telephone number will be supplied in the registration materials sent to each qualified bidder. Any bidder choosing to bid electronically may use the Auction Bidder Line telephone number as an alternate method of bidding. When submitting bids by telephone, please allow sufficient time to bid by placing calls well in advance of the close of a bidding round.⁶

11. Each authorized bidder must have its own SecurID® token to bid either electronically or by telephone. An applicant with only one authorized bidder will be issued two SecurID® tokens, while an applicant with two or three authorized bidders will be issued three tokens. For security purposes, the SecurID® tokens and the instructions for using them are mailed only to the contact person at the contact address listed on the applicant's short-form application. Please note that each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 92.

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

D. Bidding Contingency Plan

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

III. BIDDING TOOLS

A. Mock Auction

14. The Bureau strongly encourages each qualified bidder to participate in the mock auction that will be conducted on Friday, July 15, 2011. The mock auction will allow a qualified bidder to familiarize itself with the FCC Auction System and to ask FCC auction staff and technical support staff questions about the system and auction conduct. The Bureau will conduct this auction over the Internet and provide the option of bidding by telephone.

15. A qualified bidder can access the mock auction at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. Bidders choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Any qualified bidder that wishes to place bids by telephone should use the Auction Bidder Line telephone number supplied in the Auction 92 registration materials.

16. The mock auction will include a selection of 10 licenses out of the 16 available in Auction 92, and will follow the rules governing the actual auction.⁷ The mock auction will be identified as Mock Auction 74. The FCC Auction System will assume that each bidder submitted an upfront payment sufficient to give initial (maximum) eligibility of 750,000 bidding units. The mock auction will simulate the start of the auction, and each bidder will be required to be active on 80 percent of its current bidding

⁶ Because the length of a call to place bids may vary, the bidder should allow a minimum of 10 minutes.

⁷ The licenses in the mock auction will consist of the first 10 licenses listed in Attachment A of the *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3390.

eligibility. If a bidder does not meet this requirement, an activity rule waiver will be automatically applied (if any waivers are available) or its current eligibility will be permanently reduced (if no waivers remain), possibly curtailing or eliminating it from further bidding in the mock auction. A bidder should take advantage of the mock auction to practice taking actions it might wish to take during Auction 92.

17. The mock auction bidding schedule for Friday, July 15, 2011, will be as follows:

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

B. Watchlists

18. The FCC Auction System sets up for each qualified bidder a default watchlist, called “All Licenses,” which contains every license selected on the applicant’s short-form application. A qualified bidder may create additional watchlists containing licenses of its own choosing, and licenses may appear in multiple watchlists. A bidder may access the FCC Auction System and begin creating its watchlists upon receipt of the SecurID[®] tokens. Instructions for creating watchlists will be provided in the Integrated Spectrum Auction System (ISAS) Bidder’s Guide. Please note that watchlists created in the mock auction will not display in Auction 92.

C. Bidder Questions during the Mock Auction and Auction 92

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

D. Bidder Suggestions

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

IV. AUCTION INFORMATION

A. Auction Announcements

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

B. Bidding Schedule

22. Auction 92 bidding will begin on Tuesday, July 19, 2011, with four rounds and the schedule will be as follows:

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

23. The bidding schedule starting Wednesday, July 20, 2011, and continuing until further notice, will be:

Bidding Round	10:00 a.m.	-	10:30 a.m. ET
Bidding Round	11:00 a.m.	-	11:30 a.m. ET
Bidding Round	12:00 p.m.	-	12:30 p.m. ET
Bidding Round	2:00 p.m.	-	2:30 p.m. ET
Bidding Round	3:00 p.m.	-	3:30 p.m. ET
Bidding Round	4:00 p.m.	-	4:30 p.m. ET

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

C. Bid Amounts

25. Each license in Auction 92 will have a minimum opening bid amount, as previously announced, and eight additional bid amounts (for a total of nine bid amounts) from which to choose.⁸ Each bidder is cautioned to select its bid amounts carefully because each bidder assumes a binding obligation to pay the full bid amount, even if mistakenly or erroneously made.⁹

26. The Bureau retains the discretion to change the minimum acceptable bid amounts, the additional bid amounts, the dollar cap on bid increments, the number of acceptable bid amounts, and the parameters of the formulas used to calculate bid amounts if the Bureau determines that circumstances so dictate. Further, the Bureau retains the discretion to do so on a license-by-license basis.¹⁰

D. Round Results

27. Round results will be available approximately 10 minutes after the close of each round. Auction 92 will be conducted using procedures that limit the disclosure of information on bidder interests and identities until after the close of bidding.¹¹

28. Two types of reports will be available to qualified bidders during the auction: (1) publicly available information, and (2) bidder-specific information available only to that bidder when logged in to the FCC Auction System. The public information will be available on the FCC Auction System results page and in downloadable files. When a bidder is logged into the FCC Auction System, it will have a selection of "My Bid Reports" available on the FCC Auction System's bidding page. Information in "My Bid Reports" allows only the respective bidder to view all of its actions in the current and previous rounds of the auction. Samples of the downloadable files are available on the web page for Auction 92 at <http://wireless.fcc.gov/auctions/92>, via the "Sample Results Files" link in the "General Information" section of the page. Please note that the sample files provide the file formats. The data in the sample files is not specific to Auction 92.

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

⁸ *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3380-81 ¶¶ 165-71. Attachment A of the *Auction 92 Procedures Public Notice* sets forth the minimum opening bid amounts for each license offered in Auction 92. *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3390.

⁹ See 47 C.F.R. § 1.2104(g). See also *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3383-84 ¶¶ 181-89.

¹⁰ *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3381 ¶ 171.

¹¹ *Id.*, 26 FCC Rcd at 3372-74 ¶¶ 126-35, 3384 ¶ 190.

V. CONTINUING APPLICANT OBLIGATIONS

A. Prohibited Communications

30. The Bureau reminds applicants that section 1.2105(c) of the Commission's rules prohibits applicants for licenses in any of the same or overlapping geographic areas from communicating with each other about bids, bidding strategies, or settlements, which may include communications regarding post-auction market structure, unless each applicant has identified the other applicant on its short-form application as a party with which the applicant has entered into an agreement under section 1.2105(a)(2)(viii).¹² In Auction 92, the prohibition on certain communications would apply to any applicants that selected any of the same licenses or licenses in the same geographic area.¹³

31. The prohibition on certain communications in section 1.2105(c) took effect at the short-form application filing deadline, which for Auction 92 was May 11, 2011, at 6:00 p.m. ET, and extends until the post-auction down payment deadline, which will be announced in a public notice released shortly following close of bidding.¹⁴ **The prohibition applies to each applicant regardless of whether such applicant becomes a qualified bidder or actually bids.**¹⁵ For further information on the prohibition, applicants should refer to the *Auction 92 Procedures Public Notice*.¹⁶

B. Maintenance of Anonymous Bidding

32. We remind applicants that, under the anonymous bidding procedures in effect for Auction 92, the Commission is withholding from public release, until after the close of the auction, any information that may indicate a specific applicant's interests in the auction – including, among other things, license selections, upfront payments, and eligibility information – and the identities of bidders making bids or taking other bidding-related actions. Accordingly, communication to other applicants or public disclosure of such non-public information would appear to violate the Commission's anonymous bidding procedures and section 1.2105(c) of the Commission's rules.¹⁷

¹² 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 17546 (2001) (“*Part 1 Seventh Report and Order*”); *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, FCC 00-274, 15 FCC Rcd 15293, 15297-98 ¶¶ 7-8 (2000) (modified by *Erratum*, DA 00-2475, 15 FCC Rcd 21520 (rel. Nov. 3, 2000)).

¹³ For a more detailed discussion of considerations relating to prohibited communications in the context of Auction 92, see *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3345-50 ¶¶ 7-27. See also “Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules,” DA 95-2244, *Public Notice*, 11 FCC Rcd 9645 (1995).

¹⁴ 47 C.F.R. § 1.2105(c)(1).

¹⁵ For example, the Commission imposed a forfeiture in the amount of \$100,000 for violation of section 1.2105(c), even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder. See *Northeast Communications of Wisconsin, Inc., Forfeiture Order*, DA 04-3027, 19 FCC Rcd 18635 (Enf. Bur. 2004). The Commission subsequently reduced the amount of the forfeiture to \$75,000 due to the parties' history of compliance with Commission rules. See *Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on Review*, FCC 07-80, 22 FCC Rcd 8943 (2007), *review denied*, *Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (section 1.2105(c) applies to auction applicant regardless of whether the applicant is qualified to bid). The United States District Court for the Eastern District of Wisconsin granted summary judgment in favor of the United States pursuant to an effort by the Department of Justice to enforce the forfeiture. *United States v. Northeast Communications of Wis., Inc.*, 608 F.Supp.2d 1049 (D. Wis. 2008). See also Letter to Robert Pettit, from Margaret W. Wiener, Chief, Auctions and Industry Analysis Div., DA 00-2905, 16 FCC Rcd 10080 (2000) (declining to exempt an applicant's controlling interest from coverage by section 1.2105(c), even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder).

¹⁶ *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3345-50 ¶¶ 7-27.

¹⁷ *Id.*, 26 FCC Rcd at 3372-74 ¶¶ 126-35.

33. This prohibition would include communication of any such non-public information by an applicant to the public, financial analysts, or the press, as well as any such communication by an applicant to another applicant for one or more licenses covering geographic areas also covered by the applicant's license selections on its short-form application.¹⁸ Examples of communications that may raise concern, given the anonymous bidding procedures in effect for Auction 92, include an applicant's statement to the press about its upfront payment or bidding eligibility, and an applicant's statement that it is or is no longer interested in bidding in the auction.

C. Disclosure Obligations and Possible Sanctions

34. Section 1.2105(c)(6) requires any applicant that makes or receives a communication that appears to violate section 1.2105(c) to report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs.¹⁹ Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five day period.²⁰

35. In addition, section 1.65 of the Commission's rules requires an applicant to report to the Commission any communication of a bid or bidding strategy that results in a bidding arrangement, agreement, or understanding after the short-form filing application deadline.²¹

36. Any party reporting a prohibited communication must take care to ensure that any such report does not itself give rise to a violation of section 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection. The Commission amended section 1.2105(c) to minimize the risk of inadvertent dissemination by requiring a party to file only a single report and to file that report with Commission personnel expressly charged with administering the Commission's auctions.²² Pursuant to the amended rule, any report required by section 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 92 Procedures Public Notice*.²³ For Auction 92, any such report must be filed with the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available. Specifically, any such report must be submitted by e-mail to auCTION92@fcc.gov, or delivered to the following address: Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Room 6423, Washington, DC 20554.

¹⁸ The Commission has long expressed the concern that applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of non-public information relating to auctions, such as bids and bidding strategies. *Compare* "Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*," DA 98-37, 13 FCC Rcd 341, 347-48 (1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

¹⁹ 47 C.F.R. § 1.2105(c)(6); *see also Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17 ("[T]he Section 1.2105(c) reporting requirement we adopt today applies even if the communication of bids or bidding strategies does not result in a bidding arrangement, agreement or understanding that must be reported to the Commission under Section 1.65(a)." *Id.*, 16 FCC Rcd at 17552 ¶ 12).

²⁰ *See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, *Second Report and Order*, FCC 07-132, 22 FCC Rcd 15289, 15395 ¶¶ 285-86 (2007).

²¹ 47 C.F.R. § 1.65. *See Part 1 Seventh Report and Order*, 16 FCC Rcd at 17550-51 ¶ 9.

²² Procedural Amendments to Commission Part 1 Competitive Bidding Rules, WT Docket No. 10-18, *Order*, FCC 10-4, 25 FCC Rcd 521, 522 ¶ 4 (2010) ("*Part 1 Procedural Amendments Order*").

²³ *Id.*

37. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection.²⁴ Any such report must include a cover sheet to avoid the inadvertent dissemination of information contained in the report. You are encouraged to consult with the Auctions and Spectrum Access Division staff if you have any questions about the procedures for submitting such a report.²⁵ The *Auction 92 Procedures Public Notice* provides additional guidance on procedures for submitting application-related information.²⁶

38. Any applicant that is a winning bidder will be required to disclose in its long-form application the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, or other agreements or arrangements entered into relating to the competitive bidding process.²⁷

39. Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.²⁸ In addition, we remind each applicant that it is subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and it may be prohibited from participating in future auctions.²⁹

D. Submission of Auction-Related Filings

40. As noted above, an applicant seeking to amend its short-form application during the auction must make modifications electronically and submit a letter, briefly summarizing the changes, by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auktion92@fcc.gov. The e-mail summarizing the changes must include a subject or caption referring to Auction 92 and the name of the applicant.

41. A party wishing to submit a request, complaint, or other information concerning Auction 92 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auktion92@fcc.gov. The Commission occasionally receives complaints regarding specific bidders and requests to suspend bidding during an auction. While the Commission reserves the right to take appropriate action during an auction to preserve the integrity of the auction process, it is generally our practice to address any such allegations only after a winning bidder has submitted its long-form application, when there is greater opportunity for investigation of such allegations, if warranted. The Commission will not investigate any complaints or allegations that are not accompanied by full contact information, including name, address, and telephone number, for the complaining party or parties.

42. Finally, parties wishing to make suggestions concerning Auction 92 or future auctions should present such ideas using the suggestion feature of the FCC Auction System. (As mentioned above, this feature is not an appropriate mechanism for posing time-sensitive questions that need an immediate

²⁴ See 47 C.F.R. § 0.459 (procedures for requesting that materials or information submitted to the Commission be withheld from public inspection). If an applicant requests confidential treatment of a document, the cover page of the filing must prominently display that the applicant is seeking confidential treatment for that document. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all of the material to which the request applies. See 47 C.F.R. § 0.459(a).

²⁵ See Section VII. "Contact Information." below.

²⁶ See *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3348-50 ¶¶ 20-25, 3364-65 ¶¶ 86-92.

²⁷ See 47 C.F.R. § 1.2107(d).

²⁸ See 47 C.F.R. §§ 1.2105(c), 1.2109(d).

²⁹ See 47 C.F.R. § 1.2109(d).

response.) Commission staff considers all suggestions, but may not always provide an individualized response.

E. Duty to Maintain Accurate Information in Short-Form Applications (FCC Form 175)

43. Each applicant must maintain the accuracy and completeness of information furnished in its short-form application, including any attachments.³⁰ Sections 1.65(a) and 1.2105(b) of the rules require an applicant in a competitive bidding proceeding to furnish additional or corrected information within five days of a significant occurrence, or to amend its short-form applications no more than five days after the applicant becomes aware of the need for amendment.³¹ The Commission has established a five-day reporting requirement to facilitate the auction process, by making the information available promptly to all participants and enabling the Bureaus to act expeditiously on those changes when such action is necessary.³² Therefore, an applicant must amend its short-form application to furnish additional or corrected information as promptly as possible, and in no case more than five business days after the applicant becomes aware of the need for amendment or five business days after the reportable event occurs, whichever is later.³³

44. An applicant seeking to provide additional or updated information must modify its short-form application electronically and submit a letter briefly summarizing the change by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction92@fcc.gov. The e-mail summarizing the change must include a subject or caption referring to Auction 92 and the name of the applicant. The Bureau requests that parties format any attachments to e-mail as Adobe[®] Acrobat[®] (pdf) or Microsoft[®] Word documents. An applicant must not submit application-specific material through the Commission's Electronic Comment Filing System ("ECFS"). Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

45. As described in the Commission's rules, an applicant may make only minor corrections to its short-form application (e.g., deletion and addition of authorized bidders or changes to contact information).³⁴ A major modification (e.g., license selection change, newly-claimed or increased bidding credit, or changing control of the applicant) will not be accepted.³⁵ Any change affecting an applicant's eligibility for a bidding credit, insofar as it results in the reduction or loss of the credit originally claimed on the Form 175 application, must be reported immediately, and no later than five business days after the change occurs. Each applicant must clearly state the nature of the change in an amendment to its short-form application and in the summary letter referenced above. In cases of diminished bidding credit eligibility, the Commission will make appropriate adjustments in the bidding credit prior to the computation of any down and final payment amounts due.

46. When amending short-form applications, applicants must avoid any statements or disclosures that may violate section 1.2105(c) of the Commission's rules, particularly in light of the limited information disclosure procedures in place for Auction 92.³⁶ Applicants should avoid including any

³⁰ See 47 C.F.R. § 1.65. For more information on making administrative changes to an existing application, see "Minor Modifications to Short-Form Applications" and "Maintaining Current Information in Short-Form Applications" in the *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3364-65 ¶¶ 86-92, Attachment C, 26 FCC Rcd at 3405.

³¹ *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 523 ¶ 8.

³² *Id.*

³³ See 47 C.F.R. § 1.2105(b)(4); see also *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 521.

³⁴ See 47 C.F.R. § 1.2105(b).

³⁵ *Id.*

³⁶ See *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3372-74 ¶¶ 126-35.

information in their short-form applications that might convey information regarding license selections, such as using applicant names that refer to licenses being offered, referring to certain licenses or markets in describing bidding agreements, or including any information in attachments that may otherwise disclose applicants' license selections. Therefore, a party seeking to submit information that might reflect non-public information, such as an applicant's license selections, upfront payment amount, or bidding eligibility, should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications pursuant to section 1.2105(c).

F. Ex Parte Rule

47. Applicants should also be aware that the Commission has generally treated mutually exclusive short-form applications as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.³⁷

G. Due Diligence

48. We remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the licenses being offered in Auction 92. The Commission makes no representations or warranties about the use of this spectrum for particular services. We strongly encourage each potential bidder to conduct its own research prior to the beginning of bidding in Auction 92 in order to determine the existence of pending proceedings, pleadings, applications, or authorizations that might affect its decisions regarding participation in the auction. Each potential bidder is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to bid on, otherwise acquire, or make use of any specific license available in Auction 92. In addition, each potential bidder should perform sufficient technical analyses to assure itself that, should it be a winning bidder for any Auction 92 license, the bidder will be able to build and operate facilities that will comply fully with the Commission's technical and legal requirements.

49. Each participant must continue such research throughout the auction. For further details regarding due diligence, please refer to the *Auction 92 Procedures Public Notice* under Section I.B.5.³⁸

VI. POST-AUCTION INFORMATION

A. Post-Auction Procedures

50. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments and final payments.³⁹ Each winning bidder will have ten business days following the release of that public notice to submit its down payment. Final payments will be due ten business days after the deadline for submitting down payments for this auction. Each winning bidder must file a complete and accurate long-form application (FCC Form 601) and an ownership disclosure information report (FCC Form 602) within ten business days after the release of the closing public notice for this auction.⁴⁰ Each winning bidder must include with its long-form application a detailed explanation of the terms, conditions and parties involved in any bidding agreement into which it has entered, including any agreement relating to the post-auction market structure.⁴¹ Any winning bidder claiming eligibility to receive a bidding credit

³⁷ See "Commission Announces that Mutually Exclusive 'Short-Form' Applications (Form 175) to Participate in Competitive Bidding Process ('Auctions') Are Treated as Exempt for *Ex Parte* Purposes," *Public Notice*, FCC 94-283, 9 FCC Rcd 6760 (1994). See also 47 C.F.R. § 1.1202(d)(1) Note 1.

³⁸ See *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3352-53 ¶¶ 34-42.

³⁹ For more detail, see *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3384-87 ¶¶ 192-207.

⁴⁰ See 47 C.F.R. § 1.2107.

⁴¹ See 47 C.F.R. § 1.2107(d).

will be subject to the more extensive reporting requirements contained in section 1.2112(b) of the Commission's rules.⁴² In addition, any winning bidder with a foreign ownership interest will be required to comply with 47 U.S.C. § 310(b) at the long-form application review stage. Further instructions regarding these post-auction procedures are contained in the *Auction 92 Procedures Public Notice* and will be provided in the public notice announcing the winning bids.⁴³

B. Upfront Payment Refunds

51. Qualified bidders are advised not to request refunds of any unused upfront payment balances until after the Bureau issues a public notice announcing the winning bidders in Auction 92.

VII. CONTACT INFORMATION

52. For further information concerning Auction 92, please contact:

General Auction 92 Information

General Auction Questions

FCC Auctions Hotline

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

Auction 92 Process and Procedures

Auctions and Spectrum Access Division

(717) 338-2868
Debbie Smith (Analyst)
Lisa Stover (Project Manager)

Auction 92 Legal Information

Auction Rules, Policies, Regulations
Reports of Section 1.2105(c) Violations

Auctions and Spectrum Access Division

(202) 418-0660
Lynne Milne (Attorney)

Licensing Information

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

Mobility Division

(202) 418-0620
Michael Connelly (Attorney)
Keith Harper (Engineer)

Technical Support

Electronic Filing
FCC Auction System (Hardware/Software
Issues)

FCC Auctions Technical Support Hotline

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

Auction Payments

Instructions for Wiring Upfront Payments

Auctions Accounting Group

(202) 418-0578
Gail Glasser
(202) 418-2945
Theresa Meeks

53. 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).

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⁴² 47 C.F.R. § 1.2112(b).

⁴³ See *Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3384-87 ¶¶ 192-207. See also 47 C.F.R. §§ 1.2107, 1.2109(a).