

## ATTACHMENT F

### INSTRUCTIONS FOR COMPLETING FCC FORM 601 AND FCC FORM 602

This attachment contains instructions for filing FCC Form 601, Application for Wireless Telecommunications Bureau Radio Service Authorization, including Schedule B for Geographically Licensed Services (FCC Form 601), and the FCC Form 602, FCC Ownership Disclosure Information for the Wireless Telecommunications Services (FCC Form 602).

The Commission's rules require that within ten business days after the release of this Public Notice, in this case by **6:00 p.m. Eastern Time (ET) on August 23, 2013**, each winning bidder must electronically file its FCC Forms 601 and 602.

Most of the information provided on a winning bidder's short-form application (FCC Form 175) will be pre-filled to its long-form application (FCC Form 601) in the on-line filing process, such as:

- designated entity information, including revenue and/or bidding credit percentage information; and
- agreement information submitted in the FCC Form 175, including the name of the parties to the agreement(s).

If an applicant has an FCC Form 602 in the Commission's Universal Licensing System (ULS) prior to the FCC Form 601 filing deadline, the applicant is responsible for checking to ensure that the information on the FCC Form 602 on file with the Commission is complete and accurate. If an applicant needs to file a new or updated FCC Form 602 to reflect ownership changes submitted in the bidder's FCC Form 175 or to make additional updates, ULS can pre-fill the applicable ownership information from the FCC Form 175 into the FCC Form 602. Instructions for filing the FCC Form 602 are provided in Section V of this attachment.

An applicant will be able to update any information that pre-fills to its FCC Form 601 and FCC Form 602 and is responsible for checking to ensure that all information in its FCC Form 601 and FCC Form 602, including information pre-filled from its FCC Form 175 submission, is complete and accurate prior to submission.

#### I. FCC FORM 601 GENERAL REQUIREMENTS

*Each applicant is strongly encouraged to use the format below to submit FCC Form 601 and exhibits to FCC Form 601 as required by the Commission's rules. Following this format will help expedite processing of FCC Form 601 and minimize follow-up requests for missing or clarifying information.*

Each applicant bears full responsibility for the timely and complete submission of its long-form application (FCC Form 601). Each applicant should read the instructions on the FCC Form 601 carefully and should consult the Commission's rules to ensure that, in addition to the materials described below, all of the information that is required under the rules is included with its long-form application. Each applicant is also responsible for the continuing accuracy and completeness of information furnished in its pending application.<sup>1</sup> Incomplete or defective applications may be returned to the applicant.<sup>2</sup>

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<sup>1</sup> See 47 C.F.R. § 1.65.

<sup>2</sup> See 47 C.F.R. § 1.934(a), (d), (f); see also 47 C.F.R. § 1.933(b).

A winning bidder must file its FCC Form 601 electronically prior to **6:00 p.m. Eastern Time (ET) on August 23, 2013**. An applicant that fails to submit a long-form application by this deadline and fails to establish good cause for any late-filed submissions shall be deemed to have defaulted and will be subject to the default payments set forth in section 1.2104(g) of the Commission's rules.<sup>3</sup>

**Number of Forms To Be Filed.** An applicant applying for multiple licenses may submit one FCC Form 601 (including all required schedules, attachments, and exhibits) if *all* filing requirements associated with the application are identical *except* for the market designator(s) and market names(s). An applicant must file a separate FCC Form 601 for licenses in each radio service code. In Auction 95, there are licenses available in three different radio service codes (CP, CZ, and GC).<sup>4</sup> Also, an applicant seeking tribal lands bidding credits in one or more markets, but not all markets, is encouraged to submit two applications in order to separate those markets in which the applicant intends to apply for a tribal lands bidding credit from those markets in which the applicant is not seeking tribal lands bidding credit.

The *CSEA/Part 1 Report and Order* modified the procedures by which a winning bidder that is a consortium applies for a license.<sup>5</sup> In particular, (a) each member or group of members of a winning consortium seeking separate licenses will be required to file a separate FCC Form 601 for its/their respective license(s) and, in the case of a license to be partitioned or disaggregated, the member or group filing the applicable FCC Form 601 shall provide the parties' partitioning or disaggregation agreement with the FCC Form 601; (b) two or more consortium members seeking to be licensed together shall first form a legal business entity; and (c) any such entity must meet the applicable eligibility requirements in the Commission's rules for small business status.<sup>6</sup> Each consortium member must use the consortium's FCC Registration Number (FRN) when filing its separate FCC Form 601.<sup>7</sup> Within ten (10) business days after the grant of an FCC Form 601, each licensee must substitute its individual FRN for that of the consortium.<sup>8</sup>

## II. FILING FCC FORM 601

### Basic Guidelines for Filing FCC Form 601

- Some of the data entry fields on the FCC Form 601 will be pre-filled with information from the FCC Form 175.
- The application consists of data entry fields as well as "yes or no" questions. You must respond to all of the questions on the application. If you respond "Yes" to a question, you may be required to file an attachment explaining the specific circumstances (see form for specific instructions).

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<sup>3</sup> See 47 C.F.R. §§ 1.2104(g), 1.2107(c).

<sup>4</sup> The following three radio service codes apply to licenses available in Auction 95: "CP" is for Part 22 VHF/UHF Paging (excluding 931 MHz) licenses; "CZ" for Part 22 931 MHz Paging licenses; and "GC" for 929-931 MHz Band (Auctioned) licenses.

<sup>5</sup> 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*, 21 FCC Rcd 891, 911-12 ¶¶ 51-52 (2006) ("CSEA/Part 1 Report and Order").

<sup>6</sup> 47 C.F.R. § 1.2107(g).

<sup>7</sup> See 47 C.F.R. § 1.2107(g)(1)(i).

<sup>8</sup> See 47 C.F.R. § 1.2107(g)(1)(ii).

- An “Attachments” link is provided for uploading attachment files. You are responsible for filing all required attachments.
- Applications must be completed and submitted within the specific filing window of the auction, in this case prior to **6:00 p.m. Eastern Time (ET) on August 23, 2013**.
- Prior to submitting an application, you may click the “Reference Copy” link (where available) to create a preview of your completed application.
- Once an FCC Form 601 has been submitted, if you re-open the application, you must re-submit the application (by clicking the **Submit Application** button again), even if no changes are made to the application. If you do not click on the **Submit Application** button ULS will treat the application as not yet submitted.

### **Step-by-Step Instructions for Filing FCC Form 601**

1. Access ULS through the Internet at <http://wireless.fcc.gov/uls>. Select the **Log In** button in the Online Filing section from this page.

**Note:** Go to [http://esupport.fcc.gov/index.htm?job=getting\\_connected](http://esupport.fcc.gov/index.htm?job=getting_connected) for information on compatible operating systems and browser software.

2. On the ULS License Manager Login page, enter the applicant’s FRN and password. Click **Submit**. ULS will verify that you have entered a valid FRN or otherwise prompt you to obtain an FRN.

**Note:** You must login to ULS with the same FRN used to file your FCC Form 175.

For additional information on the FRN, see “All Universal Licensing System and Antenna Structure Registration Applicants Must Use Their FCC Registration Number(s), Effective December 3, 2001,” *Public Notice*, 16 FCC Rcd 18793 (2001), available at <http://wireless.fcc.gov/uls/releases/da012452.txt>. For assistance, contact the FCC Support Center at (877) 480-3201, option four; TTY: (202) 414-1255. To provide quality service and ensure security, all telephone calls are recorded.

3. After entering the FRN and password correctly, the “My Applications” page or the “My Licenses” page displays the applicant’s existing applications or licenses (if any) and related information. To apply for a new license, click the “Apply for a New License” link in the left-hand navigation menu.
4. On the Select Service page, choose the Auction Winner dropdown menu. Then select one of the following auction ID:

- 95 – CP – Part 22 VHF/UHF Paging (excluding 931 MHz)**
- 95 – CZ – Part 22 931 MHz Paging**
- 95 – GC – 929-931 MHz Band, Auctioned**

Click **Continue**.

**NOTE:** If licenses for more than one Radio Service are won, submit a separate FCC Form 601 for each license(s) in each Radio Service.

5. Supply the information requested by FCC Form 601 and the Commission's rules. Complete the questions on the pages as they appear, following the onscreen prompts and instructions. Use the buttons at the bottom of each page to continue to the next page or go back to the previous page. Provide attachments as instructed by clicking the "Attachments" link at the top of the page. Attachment requirements are described in Section III of this document. Be sure to use the standard attachment types and file descriptions set forth herein.
6. If you plan to file a request for a waiver or exception to the Commission's rules, select "Yes" for the appropriate question on the Application Information page and enter the number of rule waivers being requested. Then upload an exhibit that includes citations to the specific rule sections and the circumstances for justifying the waiver request(s). Refer to the guidelines below for Exhibit F: Waiver Requests.
7. On the Markets page, the system pre-fills the Markets Summary table with data for the license(s) the applicant won in the selected auction with the same radio service code. The "Include in Application" column contains a checkbox for each license won. Initially, all checkboxes are selected indicating that you want to include all the licenses won in this application. To unselect a license, clear its checkbox and click **Save**. The checkbox lets you apply for the winning licenses in batches, rather than all in one application. This is important if licenses were won in multiple radio services and/or you intend to seek a tribal lands bidding credit in some but not all markets. Click **Continue**.
8. The next page must be completed by applicants seeking tribal lands bidding credits. If you are applying for markets in which you intend to seek tribal lands bidding credits, see Section IV of this attachment.
9. Agreement information that was provided on an applicant's FCC Form 175 will be pre-filled into its FCC Form 601. Applicants should carefully review this information to confirm that it is complete and accurate. An applicant can edit any information that was pre-filled, delete existing agreements, and/or add additional agreements, if needed. In addition, if the applicant has entered into, intends to enter into, or is in the process of negotiating any agreements that could affect its designated entity status, you must answer the appropriate question "Yes" on the Agreement Information page, and list the agreement name, agreement type, and parties to the agreement. Further, each applicant must summarize its agreements, and provide a copy of each such agreement as part of Exhibit D. Refer to the guidelines below for Exhibit D: Agreements & Other Instruments.
10. For applicants seeking a designated entity bidding credit, revenue information for the Applicant, Disclosable Interest Holder(s), and Affiliate(s) will be pre-filled from its FCC Form 175 into the FCC Form 601. Each applicant is responsible for ensuring that the information is complete and accurate. Applicants can edit any revenue information that was pre-filled. If there have been changes to the Applicant, Disclosable Interest Holder(s) and Affiliate(s) revenue information or additional information needs to be added, answer the appropriate question "Yes" on the Revenue and Asset Information for Applicant page and attach an exhibit with the additional information and a summarization of the revenue changes from the figures submitted with the FCC Form 175. Refer to the guidelines below for Exhibit C: Designated Entities. The "Yes" answer will enable the revenue data fields and allow edits or additions to the revenue information for the Applicant. Continue to the Revenue and Asset Information for Disclosable Interest Holder(s) page and the Revenue and Asset Information for Affiliate(s) page to edit any information pre-filled from its FCC Form 175 or delete and add additional entities and their revenue information.

**Note:** ULS requires a valid FRN for each of the Disclosable Interest Holders and Affiliates added, or pre-filled from the FCC Form 175, to the FCC Form 601 filing.

11. Information required by section 1.2110(j) of the Commission's rules regarding Attributable Material Relationships must be included in Exhibit C. Refer to the guidelines below for Exhibit C: Designated Entities.
12. Continue completing the questions on the pages as they appear, following the onscreen prompts and instructions until you reach the Summary page. Use the view and edit capabilities to review the application to confirm that it is complete and accurate. Correct information as necessary. Once you are confident that the application is ready for certification and submission, click on the **Continue to Certify** button.
13. The Certification page provides General Certification Statements. By "signing" this form, an applicant certifies that the statements listed in this section are true, complete, correct, and made in good faith. To submit the application to the Commission, click the **Submit Application** button.
14. After the application has been submitted, a Confirmation page displays a file number. Applicants should print a copy of the Confirmation page for their records by choosing the Print option from the File menu of the Web browser. Applicants can also print a copy of their complete application by selecting the Reference Copy link. Use the **Log Out** link at the top left of the page to exit ULS online filing.

### **Updating an FCC Form 601**

**Changes before FCC Form 601 Deadline.** An applicant may access its application to make changes until the **August 23, 2013**, filing deadline using the following steps:

- If you quit your application at any time prior to submitting it, it will be saved in ULS. To continue working on a saved application, log in to ULS License Manager. Choose the My Applications link from the menu on the left side of the page and click on the Saved link. Click the link next to your saved application. On the next page, "Application At A Glance," choose the **Continue** link under the "Work on This Application" menu. Saved applications for an auctionable service must be completed and submitted within the ten-day filing window. Any application that is not submitted by the deadline will not be reviewed by the Commission.
- Once you click the **Submit Application** button, ULS will assign a file number to the application. To make changes to a submitted application, log in to ULS License Manager. Choose the My Applications link from the left side of the page. Then choose the Submitted Applications link. Click on the file number of your application, and choose the Update link from the "Work on This Application" menu on the right side of the page. You must click the **Submit Application** button prior to the close of the ten-day filing window.

**Important:** If you open an application after you have clicked the **Submit Application** button, even if you make no changes to the application, you must click the **Submit Application** button again. If you do not, ULS will treat the application as not yet submitted.

**Changes after FCC Form 601 Deadline.** To change any information on your application **after** the 10-day filing window has closed, log into ULS License Manager with the applicant's FRN and Password. Choose the My Application link from the left side of the page. Then click Pending applications. Click on

the file number of your application, and choose the Update link from the “Work on This Application” menu on the right side of the page.

**Important:** Changes made on an application after the filing window has closed constitute an amendment(s) to the application in ULS. Commission rules contain limitations on the filing of major amendments after the **August 23, 2013**, deadline that may affect the applicant’s legal rights.<sup>9</sup> Acceptance of an amendment by ULS does not indicate that the amendment is allowed under the Commission’s rules. Applicants are advised to consult Commission’s rules in this regard prior to filing an amendment. Once the Commission has granted a license, you may request a modification.

### **Technical Support with Filing FCC Form 601**

For technical assistance with filing the FCC Form 601, contact the ULS Technical Support Hotline at (877) 480-3201, option 2, (717) 338-2888, or (717) 338-2824 (TTY). The ULS Technical Support Hotline is available Monday through Friday from 8:00 a.m. to 6:00 p.m. ET. There are no weekend hours, and the hotline is closed on all Federal holidays. To provide quality service and ensure security, all telephone calls are recorded.

### **III. ORGANIZATION OF APPLICATION EXHIBITS**

**FCC Form 601 and Rule-Related Exhibits.** Any exhibits to be attached to an application in response to a question on the Main Form or Schedule B of FCC Form 601 or as specified in the Commission’s rules should be identified as specified in the instructions to the FCC Form 601. Applicants should select the Attachments link to connect to the Attachments page. Select the appropriate attachment type from the pull-down menu, enter the correct attachment description (listed below) in the text box provided, browse for your file, and click on the **Add Attachment** button. The electronic filing software will accept many different types of computer files. For a full list of acceptable file formats, see <http://esupport.fcc.gov/attachments.htm#types>. Do not add password protection to attached files.

Provide exhibit attachments in ULS as applicable. Any exhibits to be attached to an application as a result of Commission rule requirements should be identified as follows:

- Title
- Exhibit A: Ownership
- Exhibit B: Foreign Ownership
- Exhibit C: Designated Entities
- Exhibit D: Agreements & Other Instruments
- Exhibit E: Confidentiality Requests
- Exhibit F: Waiver Requests
- Exhibit G: Miscellaneous Information
- Exhibit X: Tribal Lands Bidding Credit Waiver Requests<sup>10</sup>

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<sup>9</sup> 47 C.F.R. §§ 1.927, 1.2107(c).

<sup>10</sup> An applicant applying for a tribal lands bidding credit, for any markets for which it was the winning bidder, must attach all tribal government certifications, applicant certifications, and waiver exhibits, as applicable, within 180 days of filing its long-form application. See discussion in Section IV. An applicant does not need to include these attachments in an application in which tribal lands bidding credits are not being sought. See *Extending Wireless Telecommunications Services to Tribal Lands, Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 4775, 4778-79 ¶ 10 (2003) (“*Tribal Lands Second Report and Order*”).

Exhibit Y: Tribal Government Certification<sup>11</sup>

Exhibit Z: Tribal Lands Bidding Credit Applicant Certification<sup>12</sup>

As specified in the instructions to the FCC Form 601, each page of each exhibit must be identified with the letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. For example, “Exhibit A, Page 1 of 10”.

#### **EXHIBIT A: OWNERSHIP INFORMATION**

Section 1.2112 of the Commission’s rules requires that each applicant for a license shall disclose fully the real party- or parties-in-interest.<sup>13</sup> This requirement may be fulfilled by providing an attachment referencing the file number, date, and name of filer of the appropriate FCC Form 602. For information regarding the filing of the FCC Form 602, see Section V of this attachment. To provide this information, applicants should upload the file, select Attachment Type “Ownership,” and enter “**Exhibit A: Ownership**” in the Description field on the Attachments page.

Although ownership information can be provided by referencing the FCC Form 602, applicants should confirm that their FCC Form 602 accurately reflects all information discussed below and as required under section 1.2112 of the Commission’s rules.

**Direct Ownership.** An applicant must provide information regarding its direct ownership as follows:

- *General Rule:* The applicant must provide the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held.<sup>14</sup>
- If the applicant is a general partnership, provide the name, address, and citizenship of each partner, and the share or interest participation in the partnership.<sup>15</sup>
- If the applicant is a limited partnership, provide the name, address, and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to either the percentage of equity paid in or the percentage of distribution of profits and losses).<sup>16</sup> In addition, if the applicant is a limited partnership, provide the name, address, and citizenship of each general partner, and the share or interest participation in the partnership.<sup>17</sup>
- If the applicant is a limited liability company, provide the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater.<sup>18</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *See* 47 C.F.R. § 1.2112.

<sup>14</sup> *See* 47 C.F.R. § 1.2112(a)(2).

<sup>15</sup> *See* 47 C.F.R. § 1.2112(a)(4).

<sup>16</sup> *See* 47 C.F.R. § 1.2112(a)(3).

<sup>17</sup> *See* 47 C.F.R. § 1.2112(a)(1).

<sup>18</sup> *See* 47 C.F.R. § 1.2112(a)(5).

**Indirect Ownership.** Applicants must identify all parties holding a 10 percent or greater indirect ownership interest in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain. If the ownership percentage for an interest in any link in the chain exceeds fifty percent or represents actual control, it shall be treated and reported as if it were a one hundred percent interest.<sup>19</sup>

**Other Disclosable Interests and Entities.** Applicants must list any Commission-licensed or regulated entity or applicant for a Commission license or authorization in which the applicant or any of the parties identified in sections 1.2112(a)(1)-(5) of the Commission’s rules owns 10 percent or more ownership interest, whether voting or nonvoting, common or preferred. This list must include a description of each such entity’s principal business and a description of each entity’s relationship to the applicant.<sup>20</sup>

**Complex Ownership Situations.** To facilitate the long-form review process, applicants whose ownership structures involve multiple layers are encouraged to provide a narrative and organizational chart detailing the relationships of the various entities.

## **EXHIBIT B: FOREIGN OWNERSHIP**

If the applicant has responded “Yes” to Question 48a and “Yes” to Question 48b on the FCC Form 601, it must attach to the application an exhibit that identifies the citation(s) of the applicable declaratory ruling(s) by DA/FCC number or the FCC Record citation, if available, release date, and any other identifying information. If the applicant has responded “Yes” to Question 48a and “No” to Question 48b on the FCC Form 601, it must attach to the application a date-stamped copy of a request for declaratory ruling concerning its foreign ownership pursuant to Section 310(b)(4) of the Communications Act, as amended.<sup>21</sup> It is not necessary to file a request for declaratory ruling concerning its foreign ownership if the applicant attaches to the application an exhibit showing that the requested license is exempt from the provisions of Section 310(b)(4). To provide the information required, the applicant should select Attachment Type “Ownership” and enter “**Exhibit B: Foreign Ownership**” in the Description field on the Attachments page. For every direct or indirect foreign owner, applicant should provide the following information:

- *Item (1) Percentage of Interest:* Identify each foreign owner’s percentage of ownership (direct and indirect) in the applicant.
- *Item (2) Country of Origin and Address:* List each foreign owner’s country of citizenship and principal place of business.
- *Item (3) Public Interest Statement:* Demonstrate how allowing the applicant to hold the requested license is consistent with the Commission’s policies pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended. In the *Foreign Participation Order*, the Commission stated that there is a presumption that indirect foreign ownership of common carrier radio licensees by entities whose home markets are World Trade Organization (“WTO”) members does not raise competitive concerns,<sup>22</sup> and that if more than twenty-five percent of the ownership of an

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<sup>19</sup> See 47 C.F.R. § 1.2112(a)(6).

<sup>20</sup> See 47 C.F.R. § 1.2112(a)(7).

<sup>21</sup> 47 U.S.C. § 310(b)(4).

<sup>22</sup> Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities, *Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891 (1997) (“*Foreign Participation Order*”), *Order on Reconsideration*, 15 FCC Rcd 18158 (2000).



entity that controls a common carrier radio licensee is attributable to parties whose home markets are non-WTO member countries, the Commission will evaluate whether those markets offer effective competitive opportunities to U.S. investors.<sup>23</sup> The Commission recently revised its foreign ownership rules, and will now treat non-WTO Member investment in common carrier licensees subject to section 310(b)(3) forbearance, and in the controlling U.S. parents of common carrier and aeronautical radio station licensees subject to section 310(b)(4), under the “open entry standard” it has applied to WTO Member investment.<sup>24</sup>

- *Item (4) Petitions for Declaratory Ruling:* As explained in the Commission’s *Foreign Participation Order*, licensees must seek the Commission’s prior approval before accepting indirect foreign ownership that causes them to exceed Section 310(b)(4)’s twenty-five percent benchmark.<sup>25</sup> In keeping with this pre-approval process, an auction applicant is required to certify in its short form application (FCC Form 175) either that it is in compliance with the foreign ownership requirements of Section 310 or that it has filed a request for relief from those requirements that is pending with the Commission.<sup>26</sup> Similarly, where foreign ownership is at issue, an applicant must indicate in its long form application (FCC Form 601) that it either has received a declaratory ruling that grants it permission to exceed the statutory benchmark of Section 310(b)(4) or that it has a request currently pending at the Commission. An applicant’s petition for a declaratory ruling to exceed the Section 310(b)(4) benchmark must be granted before any license for which the applicant is a high bidder may be granted.

#### **EXHIBIT C: DESIGNATED ENTITIES**

As noted previously, revenue information for the Applicant, Disclosable Interest Holder(s), and Affiliate(s) will be pre-filled from the short form application (FCC Form 175) into the FCC Form 601. Applicants, however, must review the pre-filled designated entity information and confirm its accuracy by applying the guidelines provided below. If necessary, an applicant should update the pre-filled revenue information in its FCC Form 601. Any other designated entity information must be provided by uploading a file, selecting Attachment Type “Ownership” and entering “**Exhibit C: Designated Entities**” in the Description field on the Attachments page. For example, applicants can use Exhibit C to provide information for entities with which they have an attributable material relationship as required by the Commission’s rules. In addition, an applicant can use Exhibit C to explain any updates to the pre-filled information from its FCC Form 175, why certain entities should not be attributed to the applicant, and why certain relationships should not be considered attributable material relationships.

Pursuant to section 1.2110(f)(1) of the Commission’s rules, the Commission may award bidding credits (i.e., payment discounts) to eligible designated entities. For licenses available in the Lower and Upper Paging Bands Auction (Auction 95,) sections 1.2110(f), 22.217, and 22.223(b) of the Commission’s rules specify that small businesses (and consortia of small businesses) are eligible for bidding credits in the following manner:

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<sup>23</sup> *Id.* at 23891, 23935-42, 23946 ¶¶ 97-118, 131.

<sup>24</sup> *See* Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended, *Second Report and Order*, 28 FCC Rcd 5741, 5757 ¶ 26 (2013).

<sup>25</sup> *Id.*

<sup>26</sup> 47 C.F.R. § 1.2105(a)(2)(v), (vi).

- **Small businesses under section 22.223(b)(2):** A small business that, together with its affiliates and controlling interests, has had average annual gross revenues that do not exceed **\$15 million** for the preceding three years, is eligible for a bidding credit of **twenty-five percent (25%)** to lower the cost of its winning bids.<sup>27</sup>
- **Small businesses under section 22.223(b)(1):** A small business that, together with its affiliates and controlling interests, has had average gross revenues that exceed **\$3 million** for the preceding three years, is eligible for a bidding credit of **thirty-five percent (35%)** to lower the cost of its winning bids.<sup>28</sup>

**Gross Revenues Test for Small Businesses.** For purposes of determining whether an applicant is eligible for status as a small business, the gross revenues of the applicant, its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship<sup>29</sup> shall be considered on a cumulative basis and aggregated.<sup>30</sup> In accordance with section 1.2110(o) of the Commission's rules, the applicant must provide the gross revenues for the most recently completed three calendar or fiscal years preceding the filing of the applicant's short-form application (FCC Form 175), separately and in the aggregate for the applicant, each of its affiliates, each of its controlling interests, each of the affiliates of its controlling interests, and each of the entities with which it has an attributable material relationship.<sup>31</sup> Gross revenues for purposes of determining eligibility are defined in section 1.2110(o) of the Commission's rules.<sup>32</sup>

**For a Consortium of Small Businesses.** Applicants that applied as a consortium of small businesses, as described in section 1.2110(b)(3)(i) of the Commission's rules, must compute and indicate gross revenues as outlined above for *each* small business in the consortium. That is, each business entity comprising the small business consortium must qualify and show gross revenues separately. The average gross revenues of the small businesses in the consortium shall not be aggregated.<sup>33</sup> As stated above, each consortium member, which must be a separate, distinct and independent legal entity, must file a separate FCC Form 601 and FCC Form 602.<sup>34</sup> When filing the FCC Form 601, each entity comprising a consortium should report the gross revenues of only that particular consortium member, along with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.

**For a Rural Telephone Cooperative.** Section 1.2110(c)(2)(ii)(F) states that officers and directors of an applicant shall be considered to have a controlling interest.<sup>35</sup> An applicant that is a rural telephone cooperative is exempt for the purpose of attribution from section 1.2110(c)(2)(ii)(F) of the Commission's

<sup>27</sup> See 47 C.F.R. §§ 1.2110(f), 22.217 and 22.223(b)(2).

<sup>28</sup> See 47 C.F.R. §§ 1.2110(f), 22.217 and 22.223(b)(1).

<sup>29</sup> 47 C.F.R. §§ 1.2110(b)(1)(i), 1.2110(b)(3)(iv)(B). See also *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15323-27 ¶¶ 59-67.

<sup>30</sup> See 47 C.F.R. §§ 1.2110(b)(1), 1.2112(b)(2).

<sup>31</sup> 47 C.F.R. § 1.2110(o), 1.2112(b)(2)(v). See also 47 C.F.R. § 1.2110(b)(1)(i).

<sup>32</sup> 47 C.F.R. § 1.2110(o).

<sup>33</sup> See 47 C.F.R. § 1.2110(b)(3)(i).

<sup>34</sup> See 47 C.F.R. § 1.2107(g)(1)(i); see also *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 911-12 ¶¶ 51-52.

<sup>35</sup> 47 C.F.R. § 1.2110(c)(2)(ii)(F).

rules, if it complies with section 1.2110(b)(3)(iii) of the Commission’s rules.<sup>36</sup> In the absence of such an exemption, gross revenues of all controlling interests, including officers and directors, must be attributed to the applicant for purposes of claiming eligibility for designated entity benefits.<sup>37</sup>

In this attachment, an applicant seeking the rural telephone cooperative exemption needs to demonstrate how it complies with section 1.2110(b)(3)(iii) of the Commission’s rules. An applicant will be exempt from attributing the officers and directors of the applicant and the controlling interests, if the applicant or a controlling interest is:

- Organized as a cooperative pursuant to state law;<sup>38</sup>
- A rural telephone company as defined by the Communications Act; and
- Eligible for tax-exempt status under the Internal Revenue Code or adheres to the cooperative principles articulated in *Puget Sound Plywood, Inc. v. Commission of Internal Revenue*, 44 T.C. 305 (1965).<sup>39</sup>

**Controlling Interests and Affiliates.** All controlling interests and affiliates, as defined by the Commission’s rules, must be included in the gross revenue calculations discussed above.<sup>40</sup>

**Material Relationships.** In determining eligibility for bidding credits, the Commission requires consideration of certain agreements or relationships for the lease or resale of its spectrum capacity.<sup>41</sup> Such relationships are referred to as “attributable material relationships.”<sup>42</sup> An applicant has an attributable material relationship when the applicant has one or more agreements with any individual entity, including entities and individuals attributable to that entity, for the lease (under either spectrum manager or *de facto* transfer leasing arrangements) or resale (including under a wholesale arrangement) of, on a cumulative basis, more than 25 percent of the spectrum capacity of any individual license that is held by the applicant or licensee.<sup>43</sup> The attributable material relationship will cause the gross revenues of

<sup>36</sup> 47 C.F.R. § 1.2110(b)(3)(iii), 1.2110(c)(2)(ii)(F).

<sup>37</sup> 47 C.F.R. § 1.2110(b)(1)(i), (c)(2)(ii)(F).

<sup>38</sup> If this condition cannot be met because the relevant jurisdiction does not have a statute that specifies requirements for organization as a cooperative, the applicant must show it is validly organized and its articles of incorporation, by-laws and/or other documents provide that it operates pursuant to cooperative principles. 47 C.F.R. § 1.2110(b)(3)(iii)(A)(2).

<sup>39</sup> 47 C.F.R. § 1.2110(b)(3)(iii)(A); *see also* Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order*, 18 FCC Rcd 10180, 10190-95 ¶¶ 15-20 (2003); Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Second Order on Reconsideration of the Fifth Report and Order*, 20 FCC Rcd 1942 (2005).

<sup>40</sup> *See* 47 C.F.R. § 1.2110(b)(1)(i), (c)(2), (c)(5).

<sup>41</sup> 47 C.F.R. § 1.2110(b)(3)(iv)(A); Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, WT Docket No. 05-211, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 21 FCC Rcd 4753, 4759-66 ¶¶ 15-30 (2006) (“*CSEA/Part 1 Second Report and Order*”), *modified by erratum*, 21 FCC Rcd 6622 (2006), *clarified by Order on Reconsideration*, 21 FCC Rcd 6703, 6710-15 ¶¶ 15-30 (2006) (“*CSEA/Part 1 Order on Reconsideration of Second Report and Order*”), petitions for reconsideration pending, *affirmed in part by Council Tree Communications, Inc. v. FCC*, 619 F.3d 235 (3d Cir. 2110) (affirming attributable material relationship rule and vacating impermissible material relationship rule); *see also Auction 92 Procedures Public Notice*, 26 FCC Rcd at 3358 ¶¶ 72-73 (summary of material relationship rule).

<sup>42</sup> *See* 47 C.F.R. § 1.2110(b)(3)(iv)(B).

<sup>43</sup> *See* 47 C.F.R. § 1.2110(b)(3)(iv)(B); *CSEA/Part 1 Second Report and Order*, 21 FCC Rcd at 4759-66 ¶¶ 15-30;

that entity and its attributable interest holders to be attributed to the applicant or licensee for the purposes of determining the applicant's or licensee's (i) eligibility for designated entity benefits and (ii) liability for "unjust enrichment"<sup>44</sup> on a license-by-license basis.<sup>45</sup>

**Minority-Owned and Women-Owned Business and Rural Telephone Companies.** The Commission is interested in the status of applicants as minority-owned and women-owned businesses and rural telephone companies for statistical purposes, even if the applicant is ineligible for bidding credits.<sup>46</sup> This information is collected in ULS and does not need to be included in an attachment.

#### **EXHIBIT D: AGREEMENTS & OTHER INSTRUMENTS**

**Bidding Agreements.** Each applicant must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint ventures, partnerships, or other agreements or arrangements entered into relating to the competitive bidding process prior to the time the bidding was completed.<sup>47</sup> A list of the agreements disclosed on an applicant's short-form application (FCC Form 175) will be pre-filled on its FCC Form 601, but should be updated if necessary. Any other additional information should be provided by uploading a file, selecting Attachment Type "Other" and entering "**Exhibit D: Agreements & Other Instruments**" in the Description field on the Attachments page.

**Other Agreements.** To comply with the requirements of sections 1.2110(j) and 1.2112(b)(2)(iii)-(iv) relating to designated entities, (vi)-(vii) of the Commission's rules, all agreements must be listed on the FCC Form 601 and each applicant must provide a summary of their agreements.<sup>48</sup> Each applicant must list, summarize, and provide the dates on which it entered into all agreements that support the applicant's designated entity eligibility, including the establishment of *de facto* and *de jure* control or the presence or absence of attributable material relationships.<sup>49</sup> Each applicant must also list and summarize any agreements that it entered into for the lease or resale/wholesale of any of the spectrum capacity of the licenses and, if seeking the rural telephone cooperative exemption, all documentation to establish eligibility pursuant to section 1.2110(b)(3)(iii)(A) of the Commission's rules.<sup>50</sup> Further, an applicant must list and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, rights to hire and fire employees, and to appoint members to boards of directors or management committees.<sup>51</sup> Pursuant to sections 1.2110(j) and 1.2112(b)(2)(i) of the Commission's rules, such agreements and instruments include, but are not limited to:

- Articles of incorporation and bylaws;
- Shareholder agreements;

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*see also CSEA/Part 1 Order on Reconsideration of Second Report and Order*, 21 FCC Rcd at 6703.

<sup>44</sup> The repayment obligations of designated entities are governed by a five-year unjust enrichment schedule. *See Council Tree Communications, Inc. v. FCC*, 619 F.3d at 258 (vacating ten-year unjust enrichment schedule).

<sup>45</sup> *CSEA/Part 1 Second Report and Order*, 21 FCC Rcd at 4759-60 ¶¶ 15, 4763-65 ¶¶ 25-30, 4765-68 ¶¶ 31-41; *see also CSEA/Part 1 Order on Reconsideration of Second Report and Order*, 21 FCC Rcd at 6712-13 ¶¶ 24-26; and 47 C.F.R. §§ 1.2110(b)(3)(iv)(B), 1.2111(d).

<sup>46</sup> *See* 47 C.F.R. § 1.2110(c)(3), (4).

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

<sup>48</sup> 47 C.F.R. §§ 1.2110(j), 1.2112(b)(2)(iii)-(iv), (vi)-(vii).

<sup>49</sup> *See* 47 C.F.R. §§ 1.2110(j), 1.2112(b)(2)(i).

<sup>50</sup> *See* 47 C.F.R. §§ 1.2110(b)(3)(iii)(A), 1.2112(b)(2)(vi)-(vii).

<sup>51</sup> *See* 47 C.F.R. § 1.2112(b)(2)(ii).

- Voting or other trust agreements;
- Partnership or Limited Liability Company (LLC) agreements;
- Management agreements;
- Joint marketing agreements;
- Franchise agreements;
- Lease and resale/wholesale agreements; and
- Any other relevant agreements (including letters of intent), oral or written.

Applicants must upload the information in a file, select Attachment Type “Other” and enter “**Exhibit D: Agreements & Other Instruments**” in the Description field on the Attachments page. Copies of agreements required by section 1.2110(j) of the Commission’s rules must be included in Exhibit D.<sup>52</sup> Any applicant with a significant number of reportable agreements or significantly lengthy agreements can elect to submit a separate Exhibit D attachment for the summary of agreements and for each agreement itself. For those applicants with significant upload requirements, submitting separate agreements would ease the electronic filing process on ULS. For example, an applicant can submit one attachment for the list and summary of agreements and upload it with the caption “Exhibit D: List and Summary of Agreements” and then submit an attachment for each agreement, e.g., “Exhibit D: LLC Agreement,” “Exhibit D: Lease Agreement.” Applicants may elect to seek confidentiality for the agreements pursuant to section 0.459 of the Commission’s rules.<sup>53</sup>

#### **EXHIBIT E: CONFIDENTIALITY REQUESTS**

All applicants should be aware that all information required by the Commission’s rules is necessary to determine each applicant’s qualifications to be a Commission licensee and, as such, will be available for public inspection. Information that is commercial, financial, privileged, or that contains a trade secret may be redacted, and confidentiality may be sought pursuant to section 0.459 of the Commission’s rules.<sup>54</sup> An applicant requesting confidential treatment for any information required as a condition to participate in the auction must follow the procedures set out in section 0.459 of the Commission’s rules. Because the required information bears on an applicant’s qualifications, the Commission envisions that confidentiality requests will not be granted routinely.

If an applicant has sought confidential treatment of any information, it must attach a statement explaining the request and referencing the particular information for which confidential treatment has been requested. To provide this information, the applicant should upload this statement as a file, select Attachment Type “Other” and enter “**Exhibit E: Confidentiality Requests**” in the Description field on the Attachments page.

**Note: An applicant must select Attachment Type “Confidentiality” for the particular exhibit for which it is requesting confidential treatment. Otherwise, the attachment will be available for public inspection.**

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<sup>52</sup> 47 C.F.R. § 1.2110(j) (“[D]esignated entities must file with their long-form applications a copy of each such agreement.”).

<sup>53</sup> See 47 C.F.R. § 0.459; see also discussion of confidentiality requests under “Exhibit E: Confidentiality Requests” below.

<sup>54</sup> See 47 C.F.R. § 0.459.

## EXHIBIT F: WAIVER REQUESTS

**Note: This Section does not apply to tribal lands waiver requests. For tribal lands bidding credit waiver requests, see Section IV, “Exhibit X: Tribal Lands Bidding Credit Waiver Requests.”**

In the event an applicant wishes to file a request for waiver of a Commission rule,<sup>55</sup> the request should be filed with the corresponding application. The applicant should upload its waiver request as a file, select Attachment Type “Waiver” and enter “**Exhibit F: Waiver Requests**” in the Description field on the Attachments page.

Waiver requests filed after the submission of the FCC Form 601 may result in a delay of the processing of the application. If a request for waiver is filed separately from the FCC Form 601, such request must refer to the corresponding application, including its file number.

## EXHIBIT G: MISCELLANEOUS INFORMATION

In the event that a winning bidder wishes to provide any additional information that does not fall within any of the other exhibits, these documents or files should be submitted by selecting Attachment Type “Other” and entering “**Exhibit G: Miscellaneous Information**” in the Description field on the Attachments page.

## IV. INSTRUCTIONS FOR APPLICANTS SEEKING TRIBAL LANDS BIDDING CREDITS

### Filing the FCC Form 601 When Seeking Tribal Lands Bidding Credits

If applicant is interested in receiving a tribal lands bidding credit, it must apply to do so when initially filing the FCC Form 601 in ULS (see Section II, “Filing FCC Form 601”).

1. Select “Yes” on the page asking if you intend to seek a Tribal Lands Bidding Credits.
2. On the Seek Tribal Lands Bidding Credit page, indicate each channel block within each market for which credit is sought by selecting the appropriate box.<sup>56</sup>

All winning bidders, including those winning bidders that apply for a tribal lands bidding credit, must pay the full amount of the Final Balance Due shown in Attachment B by the 6:00 p.m. ET **September 9, 2013** deadline (or no later than 6:00 p.m. ET on **September 23, 2013**, along with the five percent late fee required by Section 1.2109(a) of the Commission’s rules).<sup>57</sup> If an applicant’s request for a tribal lands bidding credit is approved, the Commission will contact the applicant to discuss how the tribal lands bidding credit will be applied.

For a list of the tribal lands in each geographic area, go to the Auction Website at <http://wireless.fcc.gov/auctions> and click on “Tribal Lands Credits,” then click on “Cross References.” Additional information regarding tribal lands bidding credits is available at the above-referenced website. For additional information on the tribal lands bidding credit, applicants should review the Commission’s rulemaking proceeding regarding tribal lands bidding credits and related public notices.<sup>58</sup>

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<sup>55</sup> See 47 C.F.R. § 1.925.

<sup>56</sup> See 47 C.F.R. §§ 1.2107(e), 1.2110(f)(3).

<sup>57</sup> 47 C.F.R. § 1.2109(a).

<sup>58</sup> Extending Wireless Telecommunications Services to Tribal Lands, *Third Report and Order*, 19 FCC Rcd 17652 (2004) (“*Tribal Lands Third Report and Order*”). See also *Tribal Lands Second Report and Order*; Extending Wireless Telecommunications Services to Tribal Lands, *Report and Order and Further Notice of Proposed Rule*

An applicant that indicates that it intends to serve a qualifying tribal land in any market(s) listed on its application will have an additional 180 days after the FCC Form 601 deadline within which to secure the necessary certifications from tribal authorities.<sup>59</sup> Within this 180-day period, the applicant must amend its FCC Form 601 to (1) select the tribal lands to be served, (2) provide the requisite tribal government certifications, and (3) provide the applicant certification that it will, among other things, comply with the construction requirements set forth in section 1.2110(f)(3)(vii) of the Commission's rules.<sup>60</sup> An applicant may provide the certifications when initially filing the FCC Form 601 or, after the filing window, an applicant may re-enter ULS and update the FCC Form 601 to provide the certifications. (See the instructions, "Updating the Tribal Lands Information through Electronic Filing" below.)

**Important:** Each applicant is reminded that, in addition to filing separate applications per radio service code, it should further file a separate FCC Form 601 for those markets in which it seeks tribal lands bidding credits, and another for those markets where it does not seek such credits.

Any applicant that intends to apply for tribal lands bidding credits in one or more markets must do so by the filing deadline for the FCC Form 601 (i.e., by **August 23, 2013**). An applicant will not be permitted to amend its application after the filing deadline to indicate that it intends to seek a tribal lands bidding credit for any market. However, it is possible for an applicant to update an application to indicate that it no longer intends to seek a tribal lands bidding credit in a particular market. Any applicant that elects to seek the tribal lands bidding credit when it initially submitted its FCC Form 601, but then subsequently decides not to seek the credit, should update its application to delete the request for the tribal lands bidding credit.

#### **Updating the Tribal Lands Information through Electronic Filing**

To update an FCC Form 601 during the filing window (i.e., before it has been submitted to the FCC), see "Updating an FCC Form 601" in Section II above. To update an FCC Form 601 application for tribal lands certification after it has been officially received by the Commission (i.e., within the 180-day period after the FCC Form 601 deadline), the applicant must re-enter ULS<sup>61</sup> and follow these steps:

1. Access ULS through the Internet at <http://wireless.fcc.gov/uls>. Select the **Online Filing** button from this page.
2. At the Log In page, enter the applicant's FRN and password. Click **Submit**.

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*Making*, 15 FCC Rcd 11794 (2000); "Wireless Telecommunications Bureau Announces Enhancements to the Universal Licensing System to Help Winning Bidders of FCC Auctions File for Tribal Land Bidding Credits," *Public Notice*, 16 FCC Rcd 5355 (2001); "Wireless Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands," *Public Notice*, 15 FCC Rcd 24838 (2000) ("*Tribal Lands Public Notice*"); "Wireless Telecommunications Bureau Announces Availability of Bidding Credits for Providing Wireless Services to Qualifying Tribal Lands: Tribal Land Bidding Credits to be Available Beginning in Auction No. 36 (800 MHz Specialized Mobile Radio (SMR) Lower 80 Channels) and in Future Auctions," *Public Notice*, 15 FCC Rcd 18351 (2000).

<sup>59</sup> See 47 C.F.R. § 1.2110(f)(3)(ii).

<sup>60</sup> 47 C.F.R. § 1.2110(f)(3)(vii).

<sup>61</sup> See 47 C.F.R. § 1.2110(f)(3)(ii).

3. Choose the My Applications link from the left side of the page. Then choose the Pending applications link.
4. Click on the file number of the application to view the Application At a Glance page. Click the Update link from the Work on This Application menu on the right side of the page to access FCC Form 601.
5. Proceed through the application pages using the **Continue** button at the bottom of each page until you reach the Tribal Lands Secured Certifications page. Answer “Yes” to the question on this page and provide an attachment using the Attachments link at the top of the page. For each market where a tribal lands bidding credit is being sought, the applicant must attach a signed, tribal government certification from each of the federally recognized tribal governments and an applicant certification. See “**Exhibit Y: Tribal Government Certification**” and “**Exhibit Z: Tribal Lands Bidding Credit Applicant Certification.**” Click **Continue**.
6. For each market contained in the application where the applicant indicated an intent to serve tribal lands, a Select Tribal Lands page will be presented providing the names of the federally recognized tribal lands within the market and the square kilometers of the tribal land within the market. To add a new federally-recognized tribal land to this market, select **Add**. Select the checkbox for each tribal land you want to include in your request and for which you have the tribal government certifications, and then click **Calculate** to see the credit amount you may be granted.
7. The Tribal Lands Bidding Credit Summary page will display the calculated credit and any additional credit requested for each channel block. Click **Continue**.
8. If requesting a tribal lands bidding credit in more than one market, repeat steps 6 and 7 above for each market.
9. Proceed through the remainder of the application pages using the **Continue** button at the bottom of each page to the **Certification** page. Certify your application and select **Submit Application**. After the application has been submitted, a Confirmation page displays the file number. Applicants should print a copy of the Confirmation page for their records by choosing the Print option from the File menu of the Web browser. Applicants can also print a copy of their complete application by selecting the Reference Copy link. Use the **Log Out** link at the top left of the page to exit ULS online filing.

ULS will calculate the bidding credit amount for each market automatically, according to the size (in square kilometers) of the tribal territory within the market, and in compliance with the bidding credit limit.<sup>62</sup> If multiple spectrum blocks are won in the same market, the winning bid amounts for the spectrum blocks serving tribal lands will be aggregated and the bidding credit limit will be applied against the aggregated amount.<sup>63</sup>

If the applicant is seeking a bidding credit in excess of the amount calculated pursuant to section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to section 1.925 of the Commission’s

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<sup>62</sup> See 47 C.F.R. § 1.2110(f)(3)(iii), (iv).

<sup>63</sup> *Tribal Lands Public Notice*, 15 FCC Rcd at 24839.



Rules.<sup>64</sup> Each waiver request will be evaluated on a case-by-case basis. See “**Exhibit X: Tribal Lands Bidding Credit Waiver Requests.**”

#### **EXHIBIT X: TRIBAL LANDS BIDDING CREDIT WAIVER REQUESTS**

**Request for Additional Bidding Credit.** If the applicant is seeking a credit in excess of the amount calculated according to section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to section 1.925 of the Commission’s rules.<sup>65</sup> These waiver requests are subject to the percentage cap on tribal lands bidding credits, and waivers will not be granted in excess of the applicable cap. This waiver request must demonstrate that the infrastructure costs exceed the amount of the standard bidding credit as calculated by ULS. The applicant will need to supply a detailed showing of the projected infrastructure costs, including a certification by an independent auditor that the estimated costs are reasonable. Each tribal land waiver request should be attached separately by selecting Attachment Type “Tribal Lands Waiver Requests” and entering “**Exhibit X: Tribal Lands Bidding Credit Waiver Requests**” in the Description Field on the Attachments page. In addition, the Description Field should indicate the market and tribal lands to which the waiver request pertains (e.g., Exhibit X: Tribal Lands Waiver Requests (“CZ-MEA040-AD Phoenix, Navajo Reservation”)).

#### **EXHIBIT Y: TRIBAL GOVERNMENT CERTIFICATION**

Within the 180-day period following the FCC Form 601 filing deadline, an applicant seeking a tribal lands bidding credit must amend its FCC Form 601 to select the tribal lands it intends to serve and to provide the required tribal government certifications for each tribal land selected.<sup>66</sup> The tribal government certifications **must be signed** by an officer, allotment owner(s), or corporate officer of the tribal land, Indian allotment, or Alaska Native land, respectively, and uploaded as an Adobe PDF file. Each tribal government certification should be attached separately by selecting Attachment Type “Tribal Government Certification” and entering “**Exhibit Y: Tribal Government Certification**” in the Description Field on the Attachments page. In addition, the Description Field should indicate the market and tribal lands to which the certification pertains (e.g., “Exhibit Y: Tribal Government Certification (“CZ-MEA040-AD Phoenix, Navajo Reservation”)).

A tribal government certification must state that:

1. The tribal area to be served by the winning bidder is a federally-recognized Indian tribe’s reservation, Pueblo, Colony, Alaska Native region, or Indian allotment, and has a wireline telephone penetration rate at or below eighty-five (85) percent according to the most recent U.S. Census;<sup>67</sup>
2. The tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide service on the qualifying tribal land; and

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<sup>64</sup> 47 C.F.R. § 1.925.

<sup>65</sup> 47 C.F.R. §§ 1.925, 1.2110(f)(3).

<sup>66</sup> See 47 C.F.R. § 1.2110(f)(3)(ii)(A).

<sup>67</sup> *Tribal Lands Third Report and Order*, 19 FCC Rcd 17652 (2004).

3. The tribal government will permit the applicant to site facilities and provide service on its tribal land.

See 47 C.F.R. § 1.2110(f)(3)(ii)(A)(1)-(3).

#### **EXHIBIT Z: TRIBAL LANDS BIDDING CREDIT APPLICANT CERTIFICATION**

An applicant seeking a tribal lands bidding credit must attach a certification stating that it will comply with the build out requirements set forth in section 1.2110(f)(3)(vi) of the Commission's rules and that it will consult with the tribal government regarding the citing of facilities and deployment of service on the tribal land.<sup>68</sup>

#### **V. FCC FORM 602 – OWNERSHIP DISCLOSURE INFORMATION**

Each applicant must have a current FCC Form 602 on file with the Commission by the **August 23, 2013**, deadline for filing the FCC Form 601.<sup>69</sup> If an applicant has a complete and accurate FCC Form 602 on file in ULS, it is not necessary for the applicant to file a new FCC Form 602. However, each applicant is responsible for checking to ensure that the information on its FCC Form 602 on file with the Commission is complete and accurate. If the applicant does not have an FCC Form 602 on file or it is not current, the applicant must file a new FCC Form 602. If an FCC Form 602 needs to be filed, ULS can pre-fill the FCC Form 602 with the applicable ownership information from the applicant's short form application (FCC Form 175). The applicant should confirm that the Ownership Disclosure information that is copied into the FCC Form 602 is complete and accurate.<sup>70</sup> Applicants are reminded that any updates to FCC Form 602 must be filed electronically.<sup>71</sup>

#### **Step-by-Step Instructions for Filing FCC Form 602**

1. Access the ULS homepage, <http://wireless.fcc.gov/uls>, and click the **Log In** button in the Online Filing section.
2. On the next page, enter the FRN and password of the filer and select **Continue**. The ULS Online Systems page will appear. **Note:** If the Applicant listed on FCC Form 601 is listed as the filer on the Ownership filing, provide the same FRN as provided on FCC Form 601.
3. Click the My Ownership Disclosure Information link in the left-hand Task menu.
4. On the My Ownership Disclosure Filing page, you will see the Ownership Disclosure Filing created with the submission of the FCC Form 175 marked with a red dot. Select the Filer Name link to update any of the ownership information and file the FCC Form 602.

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<sup>68</sup> See 47 C.F.R. § 1.2110(f)(3)(ii)(B) and (vi).

<sup>69</sup> See 47 C.F.R. §§ 1.919, 1.2107(f).

<sup>70</sup> See 47 C.F.R. §§ 1.919, 1.2112.

<sup>71</sup> Beginning December 10, 2002, electronic filing of FCC Form 602 via ULS became mandatory. See Wireless Telecommunications Bureau Reminds Filers of Effective Date for Mandatory Electronic Filing of FCC Form 602, *Public Notice*, 17 FCC Rcd 22934 (2002). For more information on FCC Form 602, see Wireless Telecommunications Bureau Announces Revised Version of FCC Form 602 is Now Available, *Public Notice*, 17 FCC Rcd 16197 (2002); Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602, *Public Notice*, 14 FCC Rcd 8261 (1999).

5. On the Ownership Disclosure Filing page that appears, select the Update Filing link in the Work on this Filing menu. The FCC Form 602 will pre-fill with the applicable ownership information from the FCC Form 175 filing.
6. The Work on this Filing menu will display several update options. This is your toolbox for performing action on your ownership filing. Use the links as needed, to:
  - View and Edit Filer Information
  - Add a Disclosable Interest Holder of the Filer (corresponds to questions 1-9 on Schedule A)
  - Add an FCC Regulated Business of the Filer (corresponds to question 5 on the Main Form)
  - Add an FCC Regulated Business of a Disclosable Interest Holder (corresponds to question 10 on Schedule A)
  - Change the Filing Type
  - Certify the Filing
  - Change Cellular Cross Interest
7. Update necessary information, following the onscreen instructions and prompts. To complete your changes, select the **Certify Filing** button, which appears at the bottom of the appropriate Ownership Filing pages. When the FCC Form 602 filing is submitted successfully, a Confirmation page will display the filer's FRN, the date of submission, and a file number for this filing. Any future reference to this filing must be made using this file number.

ULS Ownership Filing displays this Confirmation page for your records. We strongly recommend you print a copy of this page. You may print the Confirmation page by choosing the Print option from the File menu of your Web browser. You may also choose to print a copy of the complete FCC Form 602 by selecting the Reference Copy link.

**Note:** For additional instructions regarding electronic filing of FCC Form 602 ownership information, use the **Help** button, located on the top right of any page within Ownership Filing.

#### **COMMISSION NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT**

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0798.

**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.**