



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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## CLOSED AUCTION OF AM BROADCAST CONSTRUCTION PERMITS STATUS OF SHORT-FORM APPLICATIONS TO PARTICIPATE IN AUCTION 84

### AU Docket No. 13-268

1. By this Public Notice, the Wireless Telecommunications and Media Bureaus (collectively the “Bureaus”) announce the status of the 45 short-form applications pending for Auction 84. This auction, which is scheduled to begin on Tuesday, May 6, 2014, will offer 22 construction permits for new commercial AM radio stations. This Public Notice also provides other important information and reminders relating to the auction.

#### I. SHORT-FORM APPLICATIONS AND UPFRONT PAYMENTS

##### A. Status of Short-Form Applications

2. The short-form applications (FCC Forms 175) for Auction 84 have been reviewed for completeness and compliance with the Commission’s rules, and have been classified into the categories listed below.

Complete .....	16 applications
Incomplete .....	29 applications

3. **Complete Applications.** Attachment A to this Public Notice lists the short-form applications for Auction 84 that are accepted for filing and complete. Each of these applicants will become a qualified bidder upon receipt by the Commission of the required upfront payment by the April 7, 2014, deadline described below.<sup>1</sup> Each applicant must also maintain the accuracy of its short-form application as required by sections 1.65 and 1.2105 of the Commission’s rules.<sup>2</sup> Attachment A indicates the designated construction permits for each applicant. If an applicant claimed a new entrant bidding credit, the applicant’s claimed bidding credit percentage for each construction permit is indicated as 35 percent or 25 percent.<sup>3</sup>

<sup>1</sup> See section I.B., below; *see also* 47 C.F.R. § 1.2106 (upfront payment rule).

<sup>2</sup> 47 C.F.R. §§ 1.65, 1.2105(c).

<sup>3</sup> During the remedial filing window, four applicants reported that they were no longer eligible for the level of new entrant bidding credit claimed in their initial filings. Steve E. King and S&B Broadcasting Company no longer

4. Designation of an application as complete indicates the applicant has provided the certifications and basic information concerning its qualifications as required by the Commission's competitive bidding rules for participation in the auction.<sup>4</sup> Under the Commission's two-phased auction application process, a winning bidder must submit a long-form application after the close of the auction to demonstrate its qualifications to hold a Commission construction permit or license and, if a bidding credit is requested, its eligibility for the bidding credit requested.<sup>5</sup> 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 of entitlement to a bidding credit. In the event that an applicant is found unqualified to be a Commission permittee or licensee or is ineligible for claimed designated entity benefits, it will be liable for any obligations incurred as a result of its participation in the auction.<sup>6</sup>

5. **Incomplete Applications.** Attachment B to this Public Notice lists the short-form applications for Auction 84 that are accepted for filing but found to be incomplete or otherwise deficient. Each of these applicants will receive a letter identifying the deficiency(ies) in its application. This letter will be sent to the applicant's contact via overnight delivery along with a copy of this Public Notice. To become a qualified bidder, each applicant must make the required upfront payment and resubmit its application, having corrected any deficiencies, by the April 7, 2014, deadline.<sup>7</sup> Each applicant must also maintain the accuracy of its short-form application as required by sections 1.65 and 1.2105 of the Commission's rules.<sup>8</sup>

#### **B. Upfront Payments**

6. Upfront payments and accompanying FCC Remittance Advice forms (FCC Form 159) for Auction 84 are due in the proper account at U.S. Bank, St. Louis, Missouri, **by 6:00 p.m. Eastern Time (ET) on Monday, April 7, 2014.** In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. **Payments must be made by wire transfer only in accordance with the instructions provided in the Auction 84 Procedures Public Notice.**<sup>9</sup> No other payment method is acceptable for this auction.<sup>10</sup> Each applicant is reminded to provide its FCC Registration Number ("FRN") on the FCC Form 159 and to submit the same FRN with all future payments for Auction 84. At least one hour before placing the order for the wire transfer (but on the same business day), each applicant must fax a completed FCC Form 159 to U.S. Bank at (314) 418-4232.

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claim any bidding credit. L. Topaz Enterprises, Inc., and Edward A. Schober reduced their bidding credit claims to 25 percent.

<sup>4</sup> The Bureaus previously provided an overview of the requirements for participation in Auction 84, including detailed instructions for applicants to review, verify and, if necessary, update their previously-filed short-form applications. See Closed Auction of AM Broadcast Construction Permits Scheduled for May 6, 2014; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 84, AU Docket No. 13-268, *Public Notice*, DA 14-63, 29 FCC Rcd 354 (WTB/MB 2014) ("*Auction 84 Procedures Public Notice*").

<sup>5</sup> See 47 C.F.R. §§ 1.2107, 1.2109, 73.5005; 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) ("*Competitive Bidding Second Report and Order*").

<sup>6</sup> See generally 47 C.F.R. § 1.2109.

<sup>7</sup> See 47 C.F.R. §§ 1.2105(b), 1.2106.

<sup>8</sup> 47 C.F.R. §§ 1.65, 1.2105.

<sup>9</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 376-79 ¶¶ 79-90, Attachment C at 405-06. A wire transfer is a transaction that is initiated through an applicant's bank. It authorizes the bank to wire funds from an applicant's account to the Commission's account.

<sup>10</sup> The Commission will not accept checks, credit cards, or automated clearing house ("ACH") payments.

7. Each applicant is responsible for ensuring timely submission of its upfront payment and for timely filing of an accurate and complete FCC Remittance Advice Form (FCC Form 159).<sup>11</sup> An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the wire transfer to be initiated and completed prior to the deadline. The Commission has repeatedly cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.<sup>12</sup> Each applicant should obtain confirmation from its financial institution that its wire transfer was successful and from Commission staff that the applicant's payment has been received by the Commission in the proper account. For confirmation from the Commission, an applicant may contact Gail Glasser of the Office of Managing Director's Auctions Accounting Group at (202) 418-0578, or Theresa Meeks at (202) 418-2945. Detailed information regarding upfront payments, including the additional payment requirement for "former defaulters," can be found in section III.D of the *Auction 84 Procedures Public Notice*.<sup>13</sup>

### C. Short-Form Application Changes and Resubmission

8. Each applicant whose application for Auction 84 has been identified as incomplete must address defects in its application during the resubmission window, which is now open.<sup>14</sup> Corrected applications must be filed **prior to 6:00 p.m. ET on Monday, April 7, 2014**. Any short-form application corrections must be made electronically using the FCC's Auction System. This will be the only opportunity to cure application defects. Late resubmissions will not be accepted. An applicant that filed an application deemed to be incomplete or otherwise deficient, as noted in Attachment B to this Public Notice, must submit a timely and sufficient upfront payment before the Commission will review its resubmitted application. If an application is incomplete or otherwise deficient after the resubmission deadline has passed or if the required upfront payment is not made by the specified deadline, the applicant will not be permitted to bid.<sup>15</sup>

9. During this resubmission window, all applicants may make minor changes as described below in more detail. We remind applicants that sections 1.65 and 1.2105 of the Commission's rules require an applicant to maintain the accuracy and completeness of information furnished in its pending short-form application.<sup>16</sup> Each applicant should amend its short-form application to furnish additional or corrected information within five days of a significant occurrence, or no more than five days after the applicant becomes aware of the need for amendment.<sup>17</sup> To the extent that changes may be made directly

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<sup>11</sup> An electronic pre-filled version of the FCC Form 159 is available in connection with each applicant's Form 175 in ISAS. See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 377-78 ¶ 84, Attachment B at 403.

<sup>12</sup> See, e.g., Letter to Lee G. Petro, from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, DA 10-1270, 25 FCC Rcd 9046 (2010); Letter to David G. O'Neil, Esq. from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, DA 08-622, 23 FCC Rcd 4765 (2008).

<sup>13</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 376-79 ¶¶ 79-90.

<sup>14</sup> 47 C.F.R. § 1.2105(b)(2).

<sup>15</sup> Each of these applicants will retain its status as an applicant in Auction 84 and will remain subject to the Commission's rules prohibiting certain communications, 47 C.F.R. §§ 1.2105(c) and 73.5002(d), but will not be eligible to bid. See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *First Report and Order*, FCC 98-194, 13 FCC Rcd 15920, 15979-80 ¶ 153 (1998) ("*Broadcast First Report and Order*"), *Memorandum Opinion and Order*, FCC 99-74, 14 FCC Rcd 8724 (1999), *Memorandum Opinion and Order*, FCC 99-201, 14 FCC Rcd 12541 (1999), *aff'd*, *Orion Communications Ltd. v. FCC*, 221 F.3d 196, No. 98-1424, slip op. (D.C. Cir. June 13, 2000) (unpublished opinion available at 2000 WL 816046) (D.C. Cir.), *aff'd*, *Orion Communications Ltd. v. FCC*, 213 F.3d 761 (D.C. Cir. 2000).

<sup>16</sup> 47 C.F.R. §§ 1.65, 1.2105.

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

in the electronic Form 175 at the time of the amendment, an applicant must modify its short-form application electronically.<sup>18</sup> An applicant seeking to report changes outside of the resubmission window must 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: [auCTION84@fcc.gov](mailto:auCTION84@fcc.gov). Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

10. The electronic Form 175 will not permit an applicant to make certain modifications to its application during the resubmission period (e.g., a change to a technical proposal, claim eligibility for a higher percentage of bidding credit or change the applicant's name). Administrative and minor changes can be made, including, for example, deletion and addition of authorized bidders (to a maximum of three), revision of addresses and telephone numbers of the applicant and its contact person, and changes to responsible party.<sup>19</sup> Additional guidance on making administrative changes to an existing application may be found in the *Auction 84 Procedures Public Notice*, section II.<sup>20</sup> Each applicant is encouraged to review our guidance on permissible minor changes.<sup>21</sup> If any change in an application constitutes a "major amendment," as defined by section 1.2105, the applicant will be deemed ineligible to bid in the auction.<sup>22</sup>

11. **Application Corrections or Updates By Applicants That Did Not Update During Remedial Filing Window.** Each applicant will have an opportunity to update or revise its short-form application during the resubmission window. Any applicant that did not make any electronic updates to its application during the February 19-March 4, 2014, remedial filing window will need first to contact and coordinate with Bureau staff to be able to implement any necessary changes and submit its revised application.<sup>23</sup> Because such applicant cannot submit changes without assistance from Bureau staff, any such applicant is advised to contact staff no less than three business days prior to the April 7, 2014, resubmission deadline (*i.e.*, by or before April 2, 2014). Staff will consider updates or changes to an application only if such changes are submitted through the electronic Form 175 consistent with the instructions in this Public Notice and the *Auction 84 Procedures Public Notice*.

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<sup>18</sup> During the resubmission phase, applicants will have electronic access to update the following application data entry fields: jurisdiction of formation/country of citizenship, applicant address, responsible party information, responsible party address, contact information, contact address, authorized bidder information, bidding option (telephonic or electronic). During all phases of the application process, applicants have electronic access to make certain administrative changes including updates to: applicant address, responsible party address, contact information, contact address, and bidding option (telephonic or electronic). Any other required update in an Auction 84 application must be submitted by uploading an attachment.

<sup>19</sup> 47 C.F.R. § 1.2105(b)(2). The Commission's electronic Form 175 is designed to prevent inadvertent major changes by applicants. Therefore, applicants typically are not permitted to make changes to the following data fields after the short-form filing deadline: applicant name, legal classification, certifier, bidding credit percentage, and permits.

<sup>20</sup> For more information on making administrative changes to an existing application, see subsections "Updating Applicant's FCC Form 175 in Integrated Spectrum Auction System — Remedial Filing Window Closes March 4, 2014," "Minor Modifications to Short-Form Applications," "Maintaining Current Information in Short-Form Applications" and "Submission of Updates to Short-Form Applications" in the *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 371-73 ¶¶ 52-61; Attachment B at 394-404.

<sup>21</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 371-72 ¶ 55.

<sup>22</sup> 47 C.F.R. § 1.2105(b)(2).

<sup>23</sup> Bureau staff assistance is needed for these applicants because the FCC 175 system has changed since Auction 84 short-form applications were initially filed and will not permit an applicant to submit changes at this stage unless it already submitted an updated application in the current system during the remedial window.

## II. OTHER IMPORTANT AUCTION 84 INFORMATION

12. **Qualified Bidders.** Approximately two to three weeks after the upfront payment deadline, following Commission review of resubmitted short-form applications and the correlation of payments and applications, a public notice listing all applicants qualified to bid in Auction 84 will be released. The same public notice will also include bidding schedules for both the mock auction and the first day of bidding.

13. When two or more Auction 84 short-form applications are accepted for filing and each contains a technical proposal for a construction permit which is found to be mutually exclusive, that construction permit must be awarded by competitive bidding procedures.<sup>24</sup> Once mutual exclusivity exists for auction purposes, even if only one applicant for a particular construction permit submits an upfront payment and becomes a qualified bidder, the qualified applicant must submit a bid in order to obtain the permit.<sup>25</sup>

14. **Due Diligence.** Potential bidders are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the construction permits for AM broadcast facilities that it is seeking in Auction 84. The FCC makes no representations or warranties about the use of this spectrum for particular services. We strongly encourage potential bidders to conduct their own research prior to the beginning of bidding in order to determine the existence of pending administrative or judicial proceedings, pleadings, applications, or authorizations that might affect their decisions regarding participation in the auction. Additionally, a potential bidder should perform technical analyses and/or refresh any previous analyses to assure itself that, should it be a winning bidder for any Auction 84 construction permit, it will be able to build and operate facilities that will fully comply with the Commission's current technical and legal requirements. Participants in this auction should continue such research throughout the auction. For further details regarding due diligence, please refer to the *Auction 84 Procedures Public Notice*, section I.B.3.<sup>26</sup>

15. **New Entrant Bidding Credit Eligibility.** An applicant seeking a new entrant bidding credit must have indicated on its short-form application that it is claiming eligibility for a credit, along with the percentage of the bidding credit it is claiming.<sup>27</sup> The bidding credit percentage indicated on the short-form application as of the initial filing deadline is the maximum level of bidding credit that an applicant can claim for this auction. Circumstances may arise after the short-form application deadline under which an applicant may no longer be eligible to claim a bidding credit or may only be eligible for a bidding credit at a lower percentage. This might be the case, for example, where the applicant or one of its attributable interest holders acquires an interest in another radio station after the initial application filing window deadline.<sup>28</sup> Any change affecting eligibility for the new entrant bidding credit must be reported immediately, and no later than five business days after the change occurs,<sup>29</sup> if the change could

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<sup>24</sup> *Broadcast First Report and Order*, 13 FCC Rcd at 15978-80 ¶¶ 149-154. See also *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2376 ¶ 165.

<sup>25</sup> *Broadcast First Report and Order*, 13 FCC Rcd at 15923-25 ¶¶ 7-12.

<sup>26</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 367-68 ¶¶ 35-41.

<sup>27</sup> 47 C.F.R. § 73.5007.

<sup>28</sup> See note 3, above (describing changes of bidding credit claims by Auction 84 applicants). Additional information on the new entrant bidding credit may be found in the *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 398-99 in Attachment B.

<sup>29</sup> An applicant's obligation to make such amendment or modification to its pending application continues until it is made. See 47 C.F.R. §§ 1.65, 1.2105(b)(4), 73.5007(a); see also *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 522-23 ¶¶ 6-8.



result in the reduction or loss of the credit originally claimed on the short-form application.<sup>30</sup> To report any change regarding its new entrant bidding credit eligibility claim, an applicant must submit a letter briefly summarizing the change by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, at the following address: [auction84@fcc.gov](mailto:auction84@fcc.gov).

16. **Prohibition of Certain Communications.** The Bureaus remind applicants that sections 1.2105(c) and 73.5002(d) of the Commission's rules prohibit applicants for any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements, which may include communications regarding the post-auction market structure, unless they have identified each other on their short-form applications as parties with which they have entered into agreements under section 1.2105(a)(2)(viii).<sup>31</sup> In broadcast services, the "geographic license area" is the market designation of the particular service.<sup>32</sup> In Auction 84, this rule applies to applicants that have applied for construction permits for either the same geographic license area or the same MX group.<sup>33</sup>

17. This prohibition became effective at the initial short-form application (FCC Form 175) filing deadline pursuant to which a short-form application was filed, and ends at the post-auction down payment deadline, which will be announced in a public notice released shortly following close of bidding.<sup>34</sup> **The prohibition applies to all applicants regardless of whether such applicants become qualified bidders, submit an upfront payment, or actually bid.**<sup>35</sup>

18. We also emphasize that, for purposes of this prohibition, an "applicant" includes all controlling interests of the entity submitting a short-form application to participate in the auction, including all officers and directors of that entity and all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.<sup>36</sup> Applicants should continue

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<sup>30</sup> The Commission has recognized that changes occurring subsequent to the short form filing deadline which could serve as the basis for reducing or eliminating an applicant's previously claimed bidding credit eligibility may arise in a wide range of circumstances. See Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, MB Docket No. 09-52, *First Report and Order and Further Notice of Proposed Rule Making*, FCC 10-24, 25 FCC Rcd 1583, 1611-14 ¶¶ 57-63 (2010). See also 47 C.F.R. § 73.5007(a).

<sup>31</sup> 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1). See also Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, FCC 01-270, 16 FCC Rcd 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).

<sup>32</sup> *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17549 n.12.

<sup>33</sup> Additional guidance on the requirements of sections 1.2105(c) and 73.5002(d) may be found in the *Auction 84 Procedures Public Notice*. See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 360-66 ¶¶ 12-32.

<sup>34</sup> 47 C.F.R. § 1.2105(c)(1).

<sup>35</sup> See, e.g., *Star Wireless, LLC, Forfeiture Order*, DA 04-3026, 19 FCC Rcd 18626, 18628 ¶ 4 & n.19 (EB 2004), *order granted in part sub nom*, *Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on Review*, FCC 07-80, 22 FCC Rcd 8943 (2007) ("*Star and Northeast Review Order*"), *petition for review denied*, *Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (section 1.2105(c) applies to applicants regardless of whether they are qualified to bid); Letter to Robert Pettit, [Esquire], from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., DA 00-2905, 16 FCC Rcd 10080 (2000) (declining to exempt an applicant's controlling interest from coverage by the communication prohibition 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).

<sup>36</sup> 47 C.F.R. § 1.2105(c)(7)(i).

to take precautionary steps to prevent prohibited communications between any of the entities or persons described covered by the prohibition.<sup>37</sup>

19. If parties had agreed in principle on all material terms of a bidding agreement(s), those parties must have been identified on the short-form application under section 1.2105(c), even if the agreement had not been reduced to writing. If parties had not agreed in principle by the short-form application filing deadline, an applicant should not have included the names of those parties on its application, and must not have continued negotiations.<sup>38</sup>

20. **Reporting Prohibited Communications.** Section 1.2105(c)(6) of the Commission's rules requires each auction applicant to report a prohibited discussion or disclosure regarding bids or bidding strategy to the Commission in writing immediately, but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under section 1.65.<sup>39</sup> A party reporting a communication pursuant to sections 1.65 or 1.2105(c) must take care to ensure that any such report of a prohibited communication 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.

21. The Commission amended section 1.2105(c) to minimize the risk of inadvertent dissemination of information by requiring any party to file only a single report and to file that report with Commission personnel expressly charged with administering the Commission's auctions.<sup>40</sup> 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 84 Procedures Public Notice*.<sup>41</sup> Any such report must be filed immediately with the Chief of the Auctions and Spectrum Access Division and either submitted by e-mail to [auktion84@fcc.gov](mailto:auktion84@fcc.gov) or delivered to the following address: Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room 6423, Washington, DC 20554. Any party submitting such a report should include a cover sheet to avoid the inadvertent dissemination of information contained in the report.

22. 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.<sup>42</sup> Any such party is also encouraged to consult with the Auctions and Spectrum Access Division staff if it

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<sup>37</sup> See Application of Nevada Wireless, *Memorandum Opinion and Order*, DA 98-1137, 13 FCC Rcd 11973, 11977-78 ¶¶ 11-13 (1998). The Bureaus caution, however, that the mere existence of precautionary measures will not outweigh specific evidence of prohibited communications, nor will it preclude the initiation of an investigation when warranted. *Id.* at 11978 ¶ 13.

<sup>38</sup> See Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, DA 95-2244, 11 FCC Rcd 9645 (1995).

<sup>39</sup> 47 C.F.R. § 1.2105(c)(6); see also *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17.

<sup>40</sup> *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 522 ¶ 4.

<sup>41</sup> *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 365-66 ¶¶ 28-30.

<sup>42</sup> See 47 C.F.R. § 0.459 (procedures for requesting that materials or information submitted to the Commission be withheld from public inspection). If an applicant requests confidential treatment of a document, the cover page of the filing must prominently display that the applicant is seeking confidential treatment for that document. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all of the material to which the request applies. See 47 C.F.R. § 0.459(a).

has any questions about the procedures for submitting such reports.<sup>43</sup> The *Auction 84 Procedures Public Notice* provides additional guidance on procedures for submitting application-related information.<sup>44</sup>

23. Each applicant that is a winning bidder will be required to disclose in its long-form application the specific terms, conditions, and parties involved in any bidding consortia, joint ventures, partnerships, or other agreements, understandings or arrangements entered into relating to the competitive bidding process.<sup>45</sup> Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.<sup>46</sup> In addition, we remind applicants that they are subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.<sup>47</sup>

24. **Ex Parte Rule.** Applicants should also be aware that the Commission has generally treated mutually exclusive short-form applications to participate in the auctions process as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.<sup>48</sup>

25. **Mock Auction.** All applicants found to be qualified bidders will be eligible to participate in a mock auction on Friday, May 2, 2014. The Bureaus encourage all qualified bidders to take advantage of this opportunity to become familiar with the FCC's Integrated Spectrum Auction System ("ISAS" or "FCC Auction System"). In the public notice announcing the qualified bidders, the Bureaus will announce the bidding schedule for the mock auction. The mock auction will be conducted over the Internet, and telephonic bidding will be available as well.

26. **Electronic Bidding.** Applicants are reminded that qualified bidders are eligible to bid either electronically or telephonically and should specify their bidding preference on the FCC Form 175, if they have not already done so.

27. Bidders can access the FCC Auction System over the Internet. The following software is required to use the FCC Integrated Spectrum Auction System:

- Web Browser, either of the following is recommended:
  - Microsoft® Internet Explorer 8.0 or higher.
  - Mozilla® Firefox® 3.5 or higher.
- PDF Viewer: Adobe Reader 5.0 or higher (available at <http://www.adobe.com>)
- Minimum Screen Resolution: 1024 x 768

28. Currently, the Apple® Mac OS® is not supported.

29. **Post-Auction Procedures.** Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines

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<sup>43</sup> See section III. "Contact Information" below.

<sup>44</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 365-66 ¶¶ 28-30, 370-73 ¶¶ 51-61, 375-76 ¶¶ 74-76, 394-404 in Attachment B.

<sup>45</sup> See 47 C.F.R. § 1.2107(d).

<sup>46</sup> See 47 C.F.R. §§ 1.2105(c), 1.2107(d) and 1.2109(d).

<sup>47</sup> 47 C.F.R. § 1.2109(d).

<sup>48</sup> See "Commission Announces that Mutually Exclusive 'Short-Form' Applications (Form 175) to Participate in Competitive Bidding Process ('Auctions') Are Treated as Exempt for *Ex Parte* Purposes," *Public Notice*, FCC 94-283, 9 FCC Rcd 6760 (1994). See also 47 C.F.R. § 1.1202(d)(1) Note 1.



for submitting down payments and final payments.<sup>49</sup> Winning bidders must submit electronically a properly completed long-form application (FCC Form 301) and required exhibits for each construction permit won through Auction 84. Further filing instructions will be provided to auction winners at the close of the auction.

### III. CONTACT INFORMATION

30. For specific questions about an applicant's incomplete status or its application deficiencies, the applicant should contact the staff reviewer identified in the correspondence sent to the applicant by overnight mail.

31. For further information concerning Auction 84, contact:

#### General Auction Information

General Auction Questions  
Auction Process and Procedures

#### FCC Auctions Hotline

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

#### Auction 84 Process and Procedures

#### Auctions and Spectrum Access Division

(202) 418-0660  
Jeff Crooks (Analyst)  
Linda Sanderson (Project Manager)

#### Auction 84 Legal Information

Auction Rules, Policies, Regulations, including  
Reports of section 1.2105(c) Violations and  
Application Modifications

#### 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

#### Audio Division

(202) 418-2700  
Lisa Scanlan (Attorney)  
Tom Nessinger (Attorney)

#### 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 and  
Completion of Form 159

#### Auctions Accounting Group

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

– FCC –

<sup>49</sup> For more details on these payments and procedures, see *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 388-90 ¶¶ 141-51.