



# PUBLIC NOTICE

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## CLOSED AUCTION OF AM BROADCAST CONSTRUCTION PERMITS 17 BIDDERS QUALIFIED TO PARTICIPATE IN AUCTION 84

### AU Docket No. 13-268

1. In this Public Notice, the Wireless Telecommunications and Media Bureaus (the “Bureaus”) identify 17 applicants found to be qualified to bid in the upcoming auction of 22 construction permits in the AM broadcast service (Auction 84). Bidding in Auction 84 is scheduled to begin on Tuesday, May 6, 2014. This Public Notice contains bidding instructions and other important information regarding Auction 84. It also addresses the continuing obligations and auction procedures for all Auction 84 applicants, including those that have not qualified to bid.

#### I. QUALIFIED AND NON-QUALIFIED BIDDERS

##### A. Qualified Bidders

2. Attachment A to this Public Notice lists the name of each of the 17 qualified bidders, each qualified bidder’s upfront payment amount, and its maximum eligibility in bidding units. Designation of an applicant as qualified to bid in the auction indicates that the applicant has provided the certifications and information concerning its qualifications for participation in the auction and timely submitted a sufficient upfront payment as required by the Commission’s competitive bidding rules.<sup>1</sup>

3. In order to participate effectively in the auction, each qualified bidder should again review the auction rules, procedures, and other information described in the *Auction 84 Procedures Public Notice* and subsequent public notices.<sup>2</sup> These public notices and other documents related to

<sup>1</sup> Under the Commission’s two-phased auction application process, a winning bidder must submit a long-form application after the close of Auction 84 to demonstrate its qualifications to hold a Commission license or construction permit and, if a bidding credit is requested, its eligibility for the requested bidding credit. Thus, a determination that a short-form application is complete and complies with the Commission’s competitive bidding rules and policies is not determinative of an applicant’s qualifications to hold a license or construction permit, or entitlement to a bidding credit. See 47 C.F.R. §§ 1.2107 – 1.2109; see also Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2376-77 ¶¶ 163-168 (1994) (“*Competitive Bidding Second Report and Order*”). Commission staff generally considers an applicant’s qualifications and eligibility for a bidding credit after the auction during the long-form application process. In the event that an applicant is found unqualified to be a Commission licensee or ineligible for any claimed bidding credit, it will be liable for any obligations incurred as a result of its participation in the auction. See generally 47 C.F.R. § 1.2109.

<sup>2</sup> 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*”); see also Closed Auction of AM Broadcast Construction Permits, Status of Short-Form Applications to Participate in Auction 84, AU Docket No. 13-268, *Public Notice*, DA 14-399 (WTB/MB rel. Mar. 25, 2014).

Auction 84 are available on the Commission's auctions website at <http://wireless.fcc.gov/auctions/84/>. This Public Notice provides additional guidance.

4. Attachment B to this Public Notice lists the construction permit or permits upon which each qualified bidder is eligible to bid.<sup>3</sup> For each qualified bidder claiming a new entrant bidding credit, the applicant's bidding credit percentage for each construction permit is indicated as 35 percent or 25 percent.<sup>4</sup>

5. 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>5</sup> Even if only one applicant for a particular construction permit becomes a qualified bidder, that qualified bidder must submit a bid in order to obtain the permit.<sup>6</sup>

#### **B. Non-Qualified Bidders**

6. Attachment C to this Public Notice lists each applicant that submitted a short-form application listed in Attachment A of the *Auction 84 Procedures Public Notice* but did not qualify to bid in this auction.<sup>7</sup> All applicants, including those who have been deemed ineligible to bid, remain subject to the Commission's rules prohibiting certain communications in connection with Commission auctions.<sup>8</sup>

## **II. REGISTRATION AND BIDDING ACCESS**

#### **A. Registration Materials**

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

- At least two RSA SecurID<sup>®</sup> tokens
- Integrated Spectrum Auction System (ISAS) Bidder's Guide
- FCC Auction Bidder Line telephone number

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

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<sup>3</sup> Smith and Fitzgerald, Partnership applied for two permits being offered in Auction 84 but submitted an upfront payment sufficient only to obtain bidding eligibility for the construction permit in MX group MM-AM84-12.

<sup>4</sup> The new entrant bidding credit is not available to an applicant if it, and/or any individual or entity with an attributable interest in the applicant, has an attributable interest in more than three media of mass communications or any existing media of mass communications in the "same area" as the Auction 84 broadcast facility proposed by the applicant. 47 C.F.R. § 73.5007. See 47 C.F.R. § 73.5007(b)(1)-(3) for the specific service definitions of "same area."

<sup>5</sup> 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, 15978-80 ¶¶ 149-54 (1998) ("*Broadcast First Report and Order*"), *on recon.*, *Memorandum Opinion and Order*, FCC 99-74, 14 FCC Rcd 8724, *on further recon.*, *Memorandum Opinion and Order*, FCC 99-201, 14 FCC Rcd 12541 (1999). See also *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2376 ¶ 165.

<sup>6</sup> *Broadcast First Report and Order*, 13 FCC Rcd at 15923-25 ¶¶ 7-12.

<sup>7</sup> See 47 C.F.R. § 73.5002(b).

<sup>8</sup> See 47 C.F.R. §§ 1.2105(c) and 73.5002(d); see also *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 360-66 ¶¶ 12-32.

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

9. Any qualified bidder listed in Attachment A of this Public Notice that has not received the registration mailing **by 12:00 noon Eastern Time (ET) on Wednesday, April 30, 2014**, must contact the Auctions Hotline directly at (717) 338-2868. Qualified bidders must have these registration materials to submit bids. Receipt of the registration mailing is critical to participating in both the mock auction and the actual auction, and each qualified bidder must ensure that it has received all registration information.

#### **B. Registration Material Replacement**

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

#### **C. Bidding Access**

11. The Commission will conduct Auction 84 over the Internet. Each qualified bidder can access the Integrated Spectrum Auction System ("ISAS" or "FCC Auction System") at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. A bidder choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Apple® Mac OS® is not currently supported.

12. In addition to bidding electronically over the Internet, a qualified bidder will also have the option of bidding by telephone via the Auction Bidder Line. The Auction Bidder Line telephone number will be supplied in the registration materials sent to each qualified bidder. Any bidder choosing to bid electronically may use the Auction Bidder Line as an alternative method of bidding. When submitting bids by telephone, the bidder must allow sufficient time to bid by placing its calls well in advance of the close of a bidding round.<sup>9</sup>

13. Each authorized bidder must have its own SecurID® token to bid electronically or by telephone. An applicant with only one authorized bidder will be issued two SecurID® tokens, while an applicant with two or three authorized bidders will be issued three tokens. For security purposes, the SecurID® tokens and the instructions for using them are mailed only to the contact person at the contact address listed on the applicant's short-form application. Please note that each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 84.

14. SecurID® tokens can be recycled. We strongly encourage bidders to return the tokens to the FCC. We will provide pre-addressed envelopes to return the tokens once the auction is closed.

#### **D. Bidding Contingency Plan**

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

### **III. BIDDING TOOLS**

#### **A. Mock Auction**

16. The Bureaus strongly encourage each qualified bidder to participate in the mock auction that will be conducted on Friday, May 2, 2014. The mock auction will allow a qualified bidder to

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<sup>9</sup> Because the length of a call to place bids may vary, the bidder should allow a minimum of ten minutes.

familiarize itself with the FCC Auction System and to ask FCC auction staff and technical support staff questions about the system and auction conduct. The Bureaus will conduct this auction over the Internet, and provide the option of bidding by telephone.

17. A qualified bidder can access the mock auction at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. Bidders choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Any qualified bidder that wishes to place bids by telephone should use the Auction Bidder Line telephone number supplied in the Auction 84 registration materials.

18. The mock auction will include 5 sample construction permits. Each qualified bidder will be able to bid on only one of the sample construction permits in the mock auction.<sup>10</sup> Each sample construction permit will have 20,000 bidding units, and each bidder in the mock auction will have 20,000 bidding units of eligibility. The mock auction will otherwise follow the rules governing Auction 84.

19. The mock auction, identified as Mock Auction 74, will simulate the auction, and each bidder will be required to be active on 100 percent of its current bidding eligibility. If a bidder does not meet this requirement, an activity rule waiver will be automatically applied (if any waivers are available) or its current eligibility will be permanently reduced (if no waivers remain), possibly eliminating it from further bidding in the mock auction. A bidder should take advantage of the mock auction to practice taking actions it might wish to take during Auction 84.

20. The mock auction bidding schedule for Friday, May 2, 2014, will be as follows:

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

#### **B. Bidder Questions during the Mock Auction and Auction 84**

21. FCC auction staff and technical support staff will be available during the mock auction and the actual auction event. Only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may call on behalf of a bidder. When calling, the person should state that he or she is calling on behalf of a bidder with a time-sensitive auction issue. To place bids by telephone or to ask questions during the auction, a bidder must use the FCC Auction Bidder Line telephone number supplied in the registration materials. Otherwise, a bidder should refer to the contact information provided in Section VII, "Contact Information," below.<sup>11</sup>

#### **C. Bidder Suggestions**

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

<sup>10</sup> For qualified bidders that are the only qualified bidder for a particular construction permit in Auction 84, the mock auction will include a sample construction permit that only they will be able to bid on.

<sup>11</sup> If seeking to submit bids by telephone, a bidder must initiate a call at least 10 minutes prior to the end of the round to allow sufficient time to submit any bids. See note 9, above.

#### IV. AUCTION INFORMATION

##### A. Auction Announcements

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

##### B. Bidding Schedule

24. Beginning on Tuesday, May 6, 2014, and continuing until further notice, we will conduct Auction 84 with five rounds of bidding each business day as follows:

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

25. The Bureaus will set the pace of the auction based upon monitoring of the bidding and assessment of the auction's progress. We will provide notice of all subsequent schedule changes by announcement in the FCC Auction System during the course of the auction.

##### C. Bid Amounts

26. For each construction permit in Auction 84, the FCC Auction System will provide a minimum opening bid amount, as previously announced, and up to eight additional bid amounts from which to choose (for a typical total of nine bid amounts).<sup>12</sup> We caution each bidder to select its bid amounts carefully because each bidder assumes a binding obligation to pay the full bid amount, even if the bid was mistakenly or erroneously made.<sup>13</sup> Moreover, bid withdrawals are not permitted in Auction 84.<sup>14</sup>

27. The Bureaus retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the bid increment percentage, the additional bid amounts, the dollar cap on bid increments, the number of acceptable bid amounts, and the parameters of the formulas used to calculate bid amounts, if the Bureaus determine that circumstances so dictate.<sup>15</sup>

##### D. Round Results

28. Round results will be available approximately ten minutes after the close of each round.

29. Two types of reports will be available to qualified bidders during the auction: (1) publicly available information, and (2) bidder-specific information available only to that bidder when logged in to the FCC Auction System. The public information will be available on the FCC Auction System results page and in downloadable files. When a bidder is logged in to the FCC Auction system, it will have a selection of "My Bid Reports" available on the FCC Auction System's bidding page. Information in "My Bid Reports" allows only the respective bidder to view all of its actions in the current and previous rounds of the auction.

30. Detailed instructions for reviewing and downloading round results are provided in the Integrated Spectrum Auction System (ISAS) Bidder's Guide. The bidder's guide is included with

<sup>12</sup> *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 385 ¶ 120. Attachment A of the *Auction 84 Procedures Public Notice* lists the minimum opening bid amount for each construction permit offered in Auction 84.

<sup>13</sup> See 47 C.F.R. § 1.2104(g).

<sup>14</sup> *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 387 ¶ 137.

<sup>15</sup> *Id.*, 29 FCC Rcd at 385-86 ¶¶ 120-26.

qualified bidders' registration materials and is available in electronic form through the "HELP" link in the FCC Auction System.

## V. APPLICANTS' CONTINUING OBLIGATIONS

### A. Prohibited Communications

31. 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 post-auction market structure, unless they have identified each other on their short-form application as parties with which they have entered into an agreement under section 1.2105(a)(2)(viii).<sup>16</sup> In broadcast services, the "geographic license area" is the market designation of the particular service.<sup>17</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 mutually exclusive application group ("MX group").<sup>18</sup>

32. This prohibition became effective for Auction 84 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>19</sup> **The prohibition applies to all applicants regardless of whether such applicants become qualified bidders, submit an upfront payment, or actually bid.**<sup>20</sup>

### B. Disclosure Obligations and Possible Sanctions

33. Section 1.2105(c)(6) requires any applicant that makes or receives a communication that appears to violate section 1.2105(c) to report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs.<sup>21</sup> Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five day period.<sup>22</sup>

34. In addition, section 1.65 of the Commission's rules requires an applicant to report to the Commission any communication of a bid or bidding strategy that results in a bidding arrangement, agreement, or understanding after the short-form filing application deadline.<sup>23</sup>

35. Any party reporting a prohibited communication must take care to ensure that any such report does not itself give rise to a violation of section 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other

<sup>16</sup> 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1), 73.5002(d). *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>17</sup> *See generally Part 1 Seventh Report and Order*, 16 FCC Rcd at 17549 n.12.

<sup>18</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>19</sup> 47 C.F.R. § 1.2105(c)(1).

<sup>20</sup> *See Auction 84 Procedures Public Notice*, 29 FCC Rcd at 361 n.35.

<sup>21</sup> 47 C.F.R. § 1.2105(c)(6); *see also Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17 (Section 1.2105(c) reporting requirement applies even if the communication of bids or bidding strategies does not result in a bidding arrangement, agreement or understanding that must be reported to the Commission under Section 1.65(a)).

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

<sup>23</sup> *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17550-51 ¶ 9.

applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection. The Commission amended section 1.2105(c) to minimize the risk of inadvertent dissemination 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>24</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>25</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.

36. 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>26</sup> Any such party is also encouraged to consult with the Auctions and Spectrum Access Division staff about the procedures for submitting such a report.<sup>27</sup> The *Auction 84 Procedures Public Notice* provides additional guidance on procedures for submitting reports of potential prohibited communications.<sup>28</sup>

37. Any applicant that is a winning bidder will be required to disclose in its long-form application the specific terms, conditions, and parties involved in any agreement or arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure.<sup>29</sup>

38. Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.<sup>30</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.<sup>31</sup> If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and it may be prohibited from participating in future auctions, among other sanctions.<sup>32</sup>

### C. Submission of Auction-Related Filings

39. As noted above, an applicant seeking to amend its short-form application during the auction must make modifications electronically and submit a letter, briefly summarizing the changes, by email to the attention of Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, at the

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<sup>24</sup> Procedural Amendments to Commission Part 1 Competitive Bidding Rules, WT Docket No. 10-18, *Order*, FCC 10-4, 25 FCC Rcd 521, 522 ¶ 4 (2010) ("*Part 1 Procedural Amendments Order*").

<sup>25</sup> *Id.* See also *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 365-66 ¶¶ 28-30.

<sup>26</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).

<sup>27</sup> See Section VII, "Contact Information," below.

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

<sup>29</sup> See 47 C.F.R. § 1.2107(d).

<sup>30</sup> See 47 C.F.R. §§ 1.2105(c), 1.2109(d).

<sup>31</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 366-67 ¶¶ 33-34.

<sup>32</sup> See 47 C.F.R. § 1.2109(d).

following address: [auktion84@fcc.gov](mailto:auktion84@fcc.gov). The email summarizing the changes must include a subject or caption referring to Auction 84 and the name of the applicant.

40. A party wishing to submit a request, a complaint, or other information concerning Auction 84 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by email to the attention of Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, at the following address: [auktion84@fcc.gov](mailto:auktion84@fcc.gov). The Commission occasionally receives complaints regarding specific bidders and requests to suspend bidding during an auction. While the Commission reserves the right to take appropriate action during an auction to preserve the integrity of the auction process, it is generally our practice to address any such allegations only after a winning bidder has submitted its long-form application, when there is greater opportunity for investigation of such allegations, if warranted. The Commission will not investigate any complaints or allegations that are not accompanied by full contact information, including name, address, and telephone number, for the complaining party or parties.

41. Finally, parties wishing to make suggestions concerning Auction 84 or future auctions should present such ideas using the suggestion feature of the FCC Auction System. (As mentioned above, this feature is not an appropriate mechanism for asking time-sensitive questions that need an immediate response.) Commission staff considers all suggestions, but may not always provide an individualized response.

#### **D. Duty to Maintain Accurate Information in Short-Form Applications**

42. Applicants must maintain the accuracy and completeness of information furnished in their FCC Form 175, including any attachments.<sup>33</sup> Sections 1.65(a) and 1.2105(c) of the rules require an applicant in a competitive bidding proceeding to furnish additional or corrected information within five days of a significant occurrence, or to amend its short-form application no more than five days after the applicant becomes aware of the need for amendment.<sup>34</sup> The Commission has established a five-day reporting requirement to facilitate the auction process, by making the information available promptly to all participants and enabling the Bureaus to act expeditiously on those changes when such action is necessary.<sup>35</sup> Therefore, an applicant must amend its short-form application to furnish additional or corrected information as promptly as possible, and in no case more than five business days after the applicant becomes aware of the need for amendment or five business days after the reportable event occurs, whichever is later.<sup>36</sup>

43. An applicant seeking to provide additional or updated information must modify its short-form application electronically and submit a letter briefly summarizing the change by email to the attention of Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, at the following address: [auktion84@fcc.gov](mailto:auktion84@fcc.gov). The email summarizing the change must include a subject or caption referring to Auction 84 and the name of the applicant. The Bureaus request that parties format any attachments to email as Adobe® Acrobat® (pdf) or Microsoft® Word documents. An applicant must not submit application-specific material through the Commission's Electronic Comment Filing System ("ECFS"). Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

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<sup>33</sup> See 47 C.F.R. § 1.65. 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>34</sup> *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 523 ¶ 8.

<sup>35</sup> *Id.*, 25 FCC Rcd at 523 ¶¶ 7-8.

<sup>36</sup> See 47 C.F.R. § 1.2105(b)(4); see also *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 521.



44. As described in the Commission's rules, an applicant may make only administrative and minor changes to its short-form application (e.g., 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>37</sup> A major modification (e.g., a change to a technical proposal, claim eligibility for a higher percentage of bidding credit or change control of the applicant) will not be accepted.<sup>38</sup> Any change affecting an applicant's eligibility for a new entrant bidding credit, insofar as it results in the reduction or loss of the credit previously claimed on the short-form application, must be reported immediately, and no later than five business days after the change occurs.<sup>39</sup> Each applicant must clearly state the nature of the change in an amendment to its short-form application and in the summary letter referenced above. In cases of diminished bidding credit eligibility, the Commission will make appropriate adjustments in the bidding credit prior to the computation of any down and final payment amounts due.

#### E. Ex Parte Rule

45. Applicants should also be aware that the Commission has generally treated mutually exclusive short-form applications as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.<sup>40</sup>

#### F. Due Diligence

46. We remind potential bidders that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the construction permits being offered 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. Potential bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of any specific construction permit available in Auction 84. Additionally, a potential bidder should perform sufficient 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 comply fully with the Commission's technical and legal requirements. Participants in this auction must continue such research throughout the auction. For further details regarding due diligence, please refer to the *Auction 84 Procedures Public Notice* under Section I.B.3.<sup>41</sup>

### VI. POST-AUCTION PROCEDURES

47. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments and final payments.<sup>42</sup> Winning bidders will have ten business days following the release of that

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<sup>37</sup> See 47 C.F.R. § 1.2105(b).

<sup>38</sup> *Id.*

<sup>39</sup> 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>40</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.

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

<sup>42</sup> For more details on these payments and procedures, see *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 388-90 ¶¶ 141-51.

public notice to make down payments. Final payments will be due ten business days after the deadline for submitting down payments for this auction.

48. Winning bidders must electronically file a complete and accurate long-form application (FCC Form 301), including required exhibits, for each construction permit won through Auction 84 within the time periods announced in the auction closing public notice.<sup>43</sup> Any winning bidder claiming new entrant status must include an exhibit demonstrating its eligibility for the bidding credit.<sup>44</sup> Further filing instructions will be provided to auction winners at the close of the auction.<sup>45</sup> Further information regarding these post-auction procedures is contained in the *Auction 84 Procedures Public Notice* and will be provided in the public notice announcing the winning bidders.<sup>46</sup>

## VII. CONTACT INFORMATION

49. For further information concerning Auction 84, please 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  
Reports of section 1.2105(c) Violations and  
Application Major 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 Payments

### FCC Auctions Accounting Group

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

<sup>43</sup> See 47 C.F.R. §§ 1.2107, 73.5005. See also *Broadcast First Report and Order*, 13 FCC Rcd at 15984-85 ¶¶ 163-64.

<sup>44</sup> See 47 C.F.R. §§ 73.5005, 73.5007, 73.5008.

<sup>45</sup> See 47 C.F.R. §§ 1.2107, 1.2109(a), 73.3571, 73.5003, 73.5005, 73.5006(d).

<sup>46</sup> See *Auction 84 Procedures Public Notice*, 29 FCC Rcd at 388-90 ¶¶ 141-51; see also 47 C.F.R. §§ 1.2107, 1.2109(a).

50. 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).

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