



PUBLIC NOTICE

Federal Communications Commission
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DA 16-269
March 18, 2016

STATUS OF APPLICATIONS TO PARTICIPATE IN THE BROADCAST TELEVISION SPECTRUM INCENTIVE FORWARD AUCTION (AUCTION 1002)

APPLICATIONS DEEMED INCOMPLETE MUST BE RESUBMITTED BY APRIL 6, 2016

AU Docket No. 14-252
GN Docket No. 12-268
WT Docket No. 12-269

1. By this Public Notice, the Wireless Telecommunications Bureau (Bureau) and the Incentive Auction Task Force announce the status of the 104 applications received for Auction 1002, the forward auction portion of the broadcast television spectrum incentive auction.¹ Auction 1002 will offer new, flexible-use licenses suitable for providing mobile broadband services, which will be licensed on a geographic area basis according to Partial Economic Areas.² This Public Notice provides other important information and reminders relating to the auction.

I. INITIAL STATUS OF APPLICATIONS TO PARTICIPATE IN AUCTION 1002; OPPORTUNITY FOR MINOR CORRECTIONS

2. The applications to participate in the forward auction (FCC Forms 175) have been reviewed for completeness and compliance with the Commission's rules, and have been classified into the categories listed below.

Complete 69 applications
Incomplete 35 applications

3. **Complete Applications.** Attachment A to this Public Notice lists the applications to participate in Auction 1002 that are complete. 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. Applicants with complete applications do not have specific deficiencies to correct, but each such applicant may make permissible minor changes and must also maintain the accuracy of its FCC Form 175 application as required by Sections 1.65 and 1.2105 of the Commission's rules.³ All changes are subject to review by Commission staff.

¹ *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding*, Public Notice, 30 FCC Rcd 11034, 11085, para. 153 (WTB 2015) (*Auction 1000 Application Procedures Public Notice*).

² *Broadcast Incentive Auction Scheduled to Begin March 29, 2016; Procedures for Competitive Bidding in Auction 1000, Including Initial Clearing Target Determination, Qualifying to Bid, and Bidding in Auctions 1001 (Reverse) and 1002 (Forward)*, Public Notice, 30 FCC Rcd 8975, 8977, para. 2 (2015) (*Auction 1000 Bidding Procedures Public Notice*).

³ 47 CFR §§ 1.65, 1.2105(b). Sections 1.65(a) and 1.2105(b) of the Commission's rules require each applicant in a competitive bidding proceeding to furnish additional or corrected information within five days of a significant

4. **Incomplete Applications.** Attachment B to this Public Notice lists the applications to participate in Auction 1002 that have been found to be incomplete or otherwise deficient. Each of these applicants will receive a letter identifying 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, among other things, resubmit its application, having corrected any deficiencies, by the April 6, 2016, deadline.⁴

5. Each applicant whose application for Auction 1002 has been identified as incomplete must address defects in its application during the resubmission window, which will open at **10:00 a.m. ET on March 21, 2016.**⁵ Corrected applications must be filed **prior to 6:00 p.m. ET on April 6, 2016.** This will be the only opportunity to cure application defects. Late resubmissions will not be accepted. If an application is deemed incomplete or otherwise deficient after the resubmission deadline has passed, the applicant will not be permitted to participate in bidding.⁶

6. During this resubmission window, all applicants with incomplete applications may make minor changes to correct the deficiencies found during the staff's initial review of the applications and set forth in the letters that the Bureau is sending to each applicant whose application has been deemed incomplete. In order to make changes to its application in the Commission's Auction System (Auction System), an applicant must log into the Auction System via the Internet through different links than those previously provided in the *Auction 1000 Application Procedures Public Notice*. The new links are: <https://auctionsignon.fcc.gov> (primary location) or <https://auctionsignon2.fcc.gov> (secondary location).

7. Each such applicant may make other permissible minor changes and must also maintain the accuracy of its FCC Form 175 application as required by Sections 1.65 and 1.2105 of the Commission's rules.⁷ All changes are subject to review by Commission staff.

II. MAKING MODIFICATIONS TO APPLICATIONS

8. If an applicant needs to make permissible minor changes to its FCC Form 175 because it is incomplete, or must make changes in order to maintain the accuracy and completeness of its application pursuant to Sections 1.65 and 1.2105(b)(4), during a time when the Auction System is available for purposes of making the type of change(s) required as described in the following paragraphs, such changes should be made electronically to its FCC Form 175 using the Auction System.⁸ For the change to be submitted and considered by the Commission, an applicant must click on the SUBMIT button. After the revised application has been submitted, a confirmation page will be displayed stating the submission time, submission date, and a unique file number.⁹

9. 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 application to

occurrence, or to amend its FCC Form 175 application no more than five days after the applicant becomes aware of the need for amendment. *See Procedural Amendments to Commission Part 1 Competitive Bidding Rules*, Order, 25 FCC Rcd 521, 523, para. 8 (2010); *see also* 47 CFR § 1.2105(c)(6) (any applicant that makes or receives a prohibited communication must report such communication in writing to the Commission no later than five business days after the communication occurs).

⁴ *See* 47 CFR § 1.2105(b). To resubmit an application that has been deemed incomplete, each applicant must follow the instructions set forth in Section II below.

⁵ 47 CFR § 1.2105(b)(2).

⁶ *See Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11085-86, para. 156.

⁷ 47 CFR §§ 1.65, 1.2105.

⁸ As noted above, the new links to access the Auction System are: <https://auctionsignon.fcc.gov> (primary location) or <https://auctionsignon2.fcc.gov> (secondary location).

⁹ Applicants are advised to retain a copy of this confirmation page.

participate in Auction 1002.¹⁰ Each applicant should amend its 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.¹¹

10. Outside of the initial and resubmission filing windows (i.e., during periods when applications are under review by Commission staff), an applicant cannot use the Auction System to make changes to its FCC Form 175 other than changing the responsible party or contact person name and related information. If other permissible minor changes need to be made, or if changes are required pursuant to Sections 1.65 and 1.2105(b)(4), outside of these filing windows, the applicant must submit a letter briefly summarizing the changes to its FCC Form 175 by e-mail to auktion1002@fcc.gov. The e-mail summarizing the changes must include a subject or caption referring to Auction 1002 and the name of the applicant, for example, "Re: Changes to Auction 1002 Application of XYZ Corp." Any attachments to e-mail must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. Questions about FCC Form 175 amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660. An applicant that submits its changes in this manner must subsequently update its FCC Form 175 application in the Auction System once it is open and available to applicants.

11. After the initial filing window has closed, an applicant cannot use the Auction System to make certain permissible changes to its FCC Form 175 (e.g., correcting a misstatement of the applicant's legal classification, reducing the applicant's claimed bidding credit level).¹² If an applicant needs to make a permissible minor change that cannot be made using the Auction System, it must submit a written request by e-mail to auktion1002@fcc.gov requesting that the Commission manually make the change on the applicant's behalf. The applicant must then recertify and resubmit its application by clicking on the SUBMIT button to confirm the change.

12. Any application amendment(s) and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority, and that the contents of the amendment or statement of fact are true and correct.

13. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, as discussed in detail in the *Prohibited Communications Public Notice*, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate Section 1.2105(c) or the limited information procedures adopted for Auction 1002.¹³ A party seeking to submit, outside of the Auction System, information that might reflect non-public information, such as an applicant's license area selections, upfront payment amount, or bidding eligibility, should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications period pursuant to Section 1.2105(c).

III. OTHER IMPORTANT AUCTION 1002 INFORMATION

A. Long-Form Applications (FCC Form 601)

14. Under the Commission's two-phased, forward auction application process, a winning bidder must submit a long-form application (FCC Form 601) after the close of the auction to demonstrate

¹⁰ 47 CFR §§ 1.65, 1.2105.

¹¹ *Id.*

¹² This is the case because certain fields on the FCC Form 175 will no longer be available to, or changeable by, the applicant after the initial application filing window closes.

¹³ See *Guidance Regarding the Prohibition of Certain Communications during the Incentive Auction, Auction 1000*, Public Notice, 30 FCC Rcd 10794, 10809, para. 42 (WTB 2015) (*Prohibited Communications Public Notice*).

its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the bidding credit requested.¹⁴ Thus, a determination that an application to participate in Auction 1002 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.¹⁵ In the event that an applicant is found unqualified to be a Commission 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.¹⁶

B. Upfront Payments

15. In order to become qualified to bid in Auction 1002, an applicant must submit a timely upfront payment.¹⁷ An upfront payment is a refundable deposit made by each bidder to establish its eligibility to bid on licenses. Upfront payments help deter frivolous or insincere bidding, and provide the Commission with a source of funds in the event that the bidder incurs liability during the auction. The deadline for submitting upfront payments for Auction 1002, as well as detailed instructions about submitting upfront payments, will be provided in the *Upfront Payment Public Notice*, which will be released after the initial clearing target and associated band plan scenario have been announced.¹⁸

C. Announcement of Qualified Bidders

16. Following Commission correlation of the upfront payments and applications, the Bureau will release a public notice listing all applicants qualified to bid in Auction 1002. The *Auction 1002 Qualified Bidders Public Notice* will be issued at least 15 business days before bidding in the initial stage of Auction 1002 begins.¹⁹ Qualified bidders are those applicants with submitted applications that are deemed timely-filed and complete, provided that each such applicant has timely submitted an upfront payment that is sufficient to qualify it to bid.²⁰

D. Due Diligence

17. Each potential bidder is solely responsible for investigating and evaluating all legal, technical, and marketplace factors and risks associated with the licenses that it is seeking in Auction 1002, evaluating the degree to which those factors and risks may have a bearing on the value of the licenses and/or affect the bidder's ability to bid on, otherwise acquire, or make use of such licenses, and conducting any technical analyses necessary to assure itself that, if it wins any license(s), it will be able to build and operate facilities in accordance with the Commission's rules. Each potential bidder's due diligence efforts should include, among other things: (1) reviewing all Commission orders and public notices establishing rules and policies for the 600 MHz Band, including but not limited to spectrum use

¹⁴ See 47 CFR §§ 1.2107, 1.2109; see also *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348, 2376-77, paras. 163-68 (1994).

¹⁵ One applicant (SAL Spectrum, LLC) has requested that certain information (regarding its request for a rural service provider bidding credit) be treated as confidential pursuant to 47 CFR §§ 0.457, 0.459. That request is pending.

¹⁶ See generally 47 CFR § 1.2109. Similarly, if an applicant undertakes a change during the pendency of its auction application that is deemed to be a major modification, it would be disqualified from further participation in the auction and may be liable for default payments or other penalties. *Id.* §§ 1.2105(b)(2) (“Major amendments cannot be made to an FCC Form 175 application after the initial filing deadline.”), 1.2109.

¹⁷ *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11086-87, paras. 157-160.

¹⁸ See *Auction 1000 Bidding Procedures Public Notice*, 30 FCC Rcd at 9025-26, para 84; *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11062-63, paras. 89-90, 11086, para. 157.

¹⁹ See *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11085, para. 156.

²⁰ *Auction 1000 Bidding Procedures Public Notice*, 30 FCC Rcd at 9027, para. 89; *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11085, para. 156.

during the Post-Auction Transition Period²¹ and potential impairments affecting certain licenses;²² (2) conducting research to determine the existence of any pending administrative or judicial proceedings, including pending allocation rulemaking proceedings, that might affect its decision to participate in the auction;²³ (3) performing (or refreshing previous) technical analyses; and (4) inspecting any prospective transmitter sites located in, or near, the service area for which it plans to bid and confirming the availability of such sites and their conformance with applicable federal, state, and local land use requirements.²⁴ Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

18. The Bureau strongly encourages each participant in Auction 1002 to continue such research throughout the auction. Pending and future Commission and judicial proceedings—including applications, applications for modification, rulemaking proceedings, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to particular applicants or the licenses available in Auction 1002 (or the terms and conditions thereof, including all applicable Commission rules and regulations), and each prospective applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on licenses available in this auction.

19. For further details regarding due diligence, please refer to the *Auction 1000 Application Procedures Public Notice*, Section III.A.4.²⁵

E. Prohibition of Certain Communications

20. Section 1.2105(c)(1) of the Commission's rules provides that, subject to specified exceptions, after the deadline for filing applications to participate in the forward auction "all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider [of communications services] that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including

²¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6782-847, paras. 525-688 (2014) (*Incentive Auction Report and Order*) (modified by Erratum (rel. June 3, 2014)). See also *Comment Sought on Defining Commencement of Operations in the 600 MHz Band*, Public Notice, 30 FCC Rcd 3200 (2015). The Post-Auction Transition Period is the 39-month period for broadcasters that are assigned new channels in the repacking process and winning UHF-to-VHF and high-VHF-to-low-VHF bids to relocate to new channels, and it commences upon the public release of the public notice announcing the results of the incentive auction and repacking process (*Channel Reassignment Public Notice*). See *Incentive Auction Report and Order*, 29 FCC Rcd at 6796, para. 559.

²² For the 600 MHz Band technical rules and the flexible-use service rules, which specify the terms under which the Commission issues licenses in the 600 MHz Band, licensees should refer to *Incentive Auction Report and Order*. *Id.*, 29 FCC Rcd at 6860-93, paras. 712-806 (§ VI.B); *Id.* at 6895-6946, App. A. (Final Rules). If the license is subject to an impairment—i.e., areas within the license area where a wireless licensee may not be able to provide service because it would interfere with a broadcast licensee's coverage area or conversely, those license areas in which a wireless provider may receive harmful interference from remaining television operations in or near the 600 MHz Band—licensees should refer to the *ISIX Third Report and Order and Order on Reconsideration* for rules governing the inter-service interference environment in the 600 MHz Band. *Expanding the Economic and Innovative Opportunities of Spectrum through Incentive Auctions, et al.*, Third Report and Order and First Order on Reconsideration, 30 FCC Rcd 12049 (2015).

²³ The Commission's statutory authority under the Communications Act to add, modify and eliminate rules governing spectrum use, as the public interest warrants, applies equally to all licenses, whether acquired through the competitive bidding process or otherwise. See 47 U.S.C. § 309(j)(6)(C)-(D); *Celtronix Telemetry, Inc. v. FCC*, 272 F.3d 585 (D.C. Cir. 2001).

²⁴ See, e.g., 47 U.S.C. §§ 332(c)(7), 1455(a); *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865 (2014).

²⁵ *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11059-61, paras. 80-82.

post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline[.]”²⁶ In addition, subject to specified exceptions, beginning at the “application filing deadline for the forward auction and until the results of the incentive auction are announced by public notice, all forward auction applicants are prohibited from communicating directly or indirectly any incentive auction applicant’s bids or bidding strategies to any full power or Class A broadcast television licensee.”²⁷

21. “Applicant” for purposes of this rule includes the officers and directors of the applicant, “all controlling interests in the entity” applying to participate in the forward auction, as well as all holders of interests amounting to 10 percent or more of the entity.²⁸ As with the reverse auction (Auction 1001), a party that submits an application becomes an “applicant” under the rule at the application deadline and that status does not change based on subsequent developments.²⁹

22. **Prohibition Period.** Pursuant to the rule for the forward auction, the prohibition on certain communications began with the deadline for filing applications to participate in the auction (i.e., February 10, 2016). For communications between a forward auction applicant and another forward auction applicant or a nationwide provider that is not an applicant, or between an applicant that is a nationwide provider and any non-nationwide provider that is not an applicant, the prohibition period continues until the post-auction deadline for making down payments on winning bids. For communications between forward auction applicants and broadcast television licensees, the forward auction rule prohibition period ends with the announcement of the results of the incentive auction in the *Channel Reassignment Public Notice*. The ultimate duration of the prohibition period will depend on the length of the auction.

23. **Duty to Report.** The rules require covered parties to report violations of the prohibition of certain communications to the Commission.³⁰ For Auction 1002, reports must be filed with Margaret W. Wiener, the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available. Any such report should be submitted by email to Ms. Wiener at the following e-mail address: auction1000@fcc.gov. Any report in hard copy must be delivered only to Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 6-C217, Washington, D.C. 20554. Failure to make a timely report under the rule constitutes a continuing violation of the rule, with attendant consequences.

²⁶ 47 CFR § 1.2105(c)(1). Unlike past spectrum license auctions, the prohibition will apply to certain communications between any forward auction applicants regardless of which licenses each applicant seeks. Furthermore, the rule now applies to communications by applicants with non-applicant nationwide providers of communications services; by nationwide applicants with non-applicant non-nationwide providers; and by all applicants with covered television broadcasters. *Id.*

²⁷ *Id.* § 1.2105(c)(6).

²⁸ *Id.* § 1.2105(c)(5), (c)(6)(i). *See also id.* § 1.2105(c)(6)(iii).

²⁹ *See Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008). Thus, a forward auction applicant that does not correct deficiencies in its application, does not submit an upfront payment, and/or does not submit a bid in the clock phase, remains an “applicant” for purposes of the rule.

³⁰ 47 CFR § 1.2105(c)(4). Parties must take care not to violate the rule when making a report, by, for example, filing a publicly accessible report communicating bids and bidding strategies. If necessary, a party seeking to report a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in Section 0.459 of the Commission’s rules. 47 CFR § 0.459. We will maintain the confidentiality of any report disclosing the identity of a reverse auction bidder, consistent with the confidentiality requirements of Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 and the Commission’s rules. *See* 47 CFR § 1.2206.

24. For a thorough discussion of the prohibition of certain communications during the Incentive Auction, please refer to the *Prohibited Communications Public Notice*.³¹

F. Disclosure Obligations

25. Sections 1.65 and 1.2105(c) of the Commission's rules require each auction applicant to maintain the accuracy and completeness of information furnished in its pending application and to provide additional or corrected information within five days of a significant occurrence, or amend its FCC Form 175 application no more than five days after the applicant becomes aware of the need for amendment.³² In addition, Section 1.2105(c)(4) 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 1.65.³³ The Commission has clarified that 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.³⁴

G. Ex Parte Rule

26. Applicants should also be aware that the Commission has generally treated mutually exclusive applications to participate in the auctions process as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.³⁵

IV. ADDITIONAL INFORMATION; STAFF CONTACTS

27. Additional information for applicants is available at the Auction 1000 web page (<http://www.fcc.gov/auctions/1000>).

28. 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.

29. For further information concerning Auction 1002, contact:

General Auction Information

General Auction Questions

FCC Auctions Hotline

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

Technical Support

Hardware/Software Issues with Electronic
Filing or FCC Auction System

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

³¹ See *Prohibited Communications Public Notice*, 30 FCC Rcd 10794.

³² 47 CFR §§ 1.65, 1.2105(c). See also *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11082, para. 144.

³³ 47 CFR § 1.2105(c)(4).

³⁴ See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15289, 15395, paras. 285-86 (2007).

³⁵ 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, 9 FCC Rcd 6760 (1994). See also 47 CFR § 1.1202(d)(1) Note 1.

Auction 1002 Process and Procedures

Bidding Procedures, Auction Inventory,
and Auction Schedule

Auctions and Spectrum Access Division

(717) 338-2868
Linda Sanderson or Sue Sterner

Auction 1002 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
Leslie Barnes or Valerie Barrish

Press Information

For Press Questions

Charles Meisch at (202) 418-2943
(800) 418-3676 (outside Washington DC)
(202) 418-3676 (in the Washington DC area)

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

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