



PUBLIC NOTICE

Federal Communications Commission
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DA 16-503
May 12, 2016

99 APPLICATIONS TO PARTICIPATE IN THE FORWARD AUCTION (AUCTION 1002) OF THE BROADCAST TELEVISION SPECTRUM INCENTIVE AUCTION DEEMED TO BE COMPLETE

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 (Task Force) announce that 99 of the 104 applications received for Auction 1002, the forward auction portion of the broadcast television spectrum incentive auction, have been deemed to be complete.¹ This Public Notice also provides other important information and reminders relating to Auction 1002.²

I. STATUS OF APPLICATIONS TO PARTICIPATE IN AUCTION 1002

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 99 applications
Incomplete 5 applications

3. To become a qualified bidder in Auction 1002, each applicant whose application has been deemed complete must also submit a timely and sufficient upfront payment.³ The deadline for submitting upfront payments for Auction 1002 will be provided, along with detailed instructions about submitting

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. *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*).

² On March 18, 2016, the Bureau and the Task Force announced the initial status of the 104 applications received for Auction 1002, along with a resubmission filing window to allow all applicants with incomplete applications to correct any deficiencies identified during the staff’s initial review of the applications. *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*, Public Notice, 31 FCC Rcd 1962 (WTB 2016) (*Auction 1002 Status Public Notice*).

³ An upfront payment is a refundable deposit made by each bidder to establish its eligibility to bid on licenses. *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding*, Public Notice, 30 FCC Rcd 11034, 11086-87, paras. 157-160 (WTB 2015) (*Auction 1000 Application Procedures Public Notice*).

upfront payments, in a forthcoming public notice (*Upfront Payment Public Notice*).⁴ The upfront payment deadline will be at least 15 business days following release of the *Upfront Payment Public Notice*.

4. **Complete Applications.** Attachment A to this Public Notice lists the applications to participate in Auction 1002 that are complete.⁵ 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.⁶ A copy of this Public Notice will be sent by email to the contact person listed on the FCC Form 175 for each applicant listed on Attachment A.

5. **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

⁴ 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, 11086, paras. 89-90, 157. The *Upfront Payment Public Notice* will include information on, among other things, the upfront payment calculator, which will become available around the time that public notice is released. See also *Initial Clearing Target of 126 Megahertz Set for the Broadcast Television Spectrum Incentive Auction; Bidding in the Clock Phase of the Reverse Auction (Auction 1001) Will Start on May 31, 2016*, Public Notice, DA 16-453, at 2, para. 3 (WTB Apr. 29, 2016).

⁵ To help applicants understand the status of applications as set out in attachments to this public notice and prepare for Auction 1002, we note certain changes to specific applications. Applicant Iowa RSA 2 Limited Partnership submitted, in its initial auction application filing, a request for a waiver of its reserve eligibility in certain license areas (see *Auction 1002 Status Public Notice*, 31 FCC Rcd at 1973, Attachment B), but withdrew the request during the application resubmission period. Another applicant – Lisa Wendl – changed the name of the applicant to Pacific Connex, Inc., and made a corresponding change to its legal classification. As indicated in Attachment B to this Public Notice, a second application filed by Lisa Wendl has been deemed incomplete, pursuant to 47 CFR § 1.2105(a)(3), (b)(1)(ii). As noted in the *Auction 1002 Status Public Notice*, SAL Spectrum, LLC (SAL) requested confidential treatment of subscriber information for SAL and its affiliates contained in its application to participate in Auction 1002, and related information submitted by attachment to the application, in support of its request for a rural service provider bidding credit. See *Auction 1002 Status Public Notice*, 31 FCC Rcd at 1965, n.15. During the Auction 1002 resubmission filing window, SAL amended its application to include a request for confidential treatment of all subscriber information for its foreign affiliates. The Bureau's Auctions and Spectrum Access Division denied SAL's request on April 20, 2016. See *SAL Spectrum, LLC – Request for Confidential Treatment of Subscribers Information Provided in FCC Form 175*, Letter Order, DA 16-426 (WTB/ASAD Apr. 20, 2016). On May 3, 2016, SAL, along with its parent company, Atlantic Tele-Network, Inc. (ATN), filed an application for review of the denial of SAL's request for confidential treatment with respect to certain subscribers of SAL's foreign affiliates. See *SAL Spectrum, LLC, Application to Participate in Auction 1002, File No. 0007122225*, Application for Review (filed May 3, 2016). SAL and ATN also separately filed a petition for waiver of the rural service bidding credit eligibility requirements set forth in 47 CFR § 1.2110(f)(4). See *SAL Spectrum, LLC, Application to Participate in Auction 1002, File No. 0007122225*, Petition for Waiver (filed May 3, 2016). The Bureau has sought comment on the waiver petition. See *Wireless Telecommunications Bureau Seeks Comment on Atlantic Tele-Network, Inc., and SAL Spectrum, LLC, Petition for Waiver to Claim Eligibility for a Rural Service Provider Bidding Credit in Auction 1002*, Public Notice, DA 16-516 (WTB May 11, 2016). While SAL's application has been deemed complete for purposes of participating in the forward auction, its claim for a rural service provider bidding credit remains subject to these pending requests.

⁶ After the close of Auction 1002, a winning bidder must submit a long-form application (FCC Form 601) to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the requested bidding credit. Commission staff generally considers an applicant's qualifications and eligibility for a bidding credit after the auction during the long-form application process. 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 entitlement to a bidding credit. 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. 163-168 (1994). If 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 CFR § 1.2109.

applicants no longer has an opportunity to cure application defects and cannot become qualified to bid in Auction 1002.⁷ A copy of this Public Notice will be sent by email to the contact person listed on the FCC Form 175 for each applicant listed on Attachment B.

II. OTHER IMPORTANT AUCTION 1002 INFORMATION

A. Bid Upload Feature and Practicing with the Auction System

6. The Bureau recently announced that a bid upload feature will be available to forward auction bidders in all clock phase rounds rather than just for the initial round of the auction.⁸ A description of how the bid upload feature will work, as well as specifications of the required file format for the bid upload feature, will be provided in a forthcoming public notice.⁹

7. We previously announced that we will provide an opportunity to practice using the Auction System prior to the mock auction.¹⁰ In order to allow potential bidders to familiarize themselves with the bid upload specifications before providing the practice opportunity, we will defer this opportunity until after the release of the public notice listing all applicants qualified to bid in Auction 1002 (*Auction 1002 Qualified Bidders Public Notice*).¹¹ Accordingly, only qualified bidders will receive RSA SecurID[®] tokens (RSA tokens).¹² This approach will enhance the practice experience by providing potential bidders with access to Auction System conditions that will better approximate the experience of bidding in the clock phase. In addition, it will enhance security by providing access to the Auction System only to qualified bidders, consistent with our long-standing approach for mock auctions.

B. Announcement of Qualified Bidders

8. The *Auction 1002 Qualified Bidders Public Notice* will be released at least 15 business days before bidding in the initial stage of Auction 1002 begins. The *Auction 1002 Qualified Bidders Public Notice* will also announce additional dates and details about Auction 1002.

9. Each Auction 1002 qualified bidder will have access to detailed impairment information in the Auction System and, as explained above, will also be eligible to practice using the Auction System and participate in the mock auction prior to the start of bidding.¹³ Additional details about participating in the practice and mock auctions will be provided in a future public notice.

10. All qualified bidders will be automatically registered for the auction.¹⁴ The Bureau will send, by overnight delivery, registration materials to the contact person listed on each qualified bidder's FCC Form 175. The package will include an RSA token issued by the Bureau specifically assigned to each of the authorized bidders identified on the qualified bidder's FCC Form 175. The RSA token will

⁷ See *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11085-86, para. 156.

⁸ *Wireless Telecommunications Bureau Updates Broadcast Incentive Auction File Formats for Forward Auction Clock Phase, Announces a Bid Upload Feature for All Rounds, and Provides Additional Data on Impairment Data Downloads*, Public Notice, 31 FCC Rcd 2129, 2129, para. 3 (WTB 2016).

⁹ *Id.*

¹⁰ *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11084, para. 149; *Updates and Other Supplemental Information*, Public Notice, 30 FCC Rcd 14182, 14184, para. 8 (WTB 2015) (*Supplemental Application Procedures Public Notice*).

¹¹ See para. 3 *supra*.

¹² Given our announcement here to defer the practice opportunity, it is no longer necessary to distribute RSA tokens to each applicant whose application is listed as complete. Cf. *Supplemental Application Procedures Public Notice*, 30 FCC Rcd at 14184, para. 8.

¹³ See *Auction 1000 Bidding Procedures Public Notice*, 30 FCC Rcd at 9027, 9043, paras. 89, 134; *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11085, para. 156.

¹⁴ See *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11087, para. 161.

allow each authorized bidder to log in and access the Auction System in order to view detailed impairment information, participate in any practice and mock auctions, and place bids in the forward auction clock phase.¹⁵ For security purposes, the RSA tokens, the telephonic bidding telephone number, and other auction-related materials will be sent only to the applicant's contact person at the contact address listed on its auction application.

C. Availability of Auction 1002 Application Information

11. All FCC Form 175 applications submitted during the initial application filing window became publicly available on March 21, 2016.¹⁶ Modifications to FCC Form 175 applications and other information submitted after the initial filing deadline on February 10, 2016, will become publicly available after the release of the *Auction 1002 Qualified Bidders Public Notice*. Applicants should note that, once the modified FCC Form 175 applications become publicly available, any subsequent changes made to their auction applications in the Auction System will become publicly available after submission.

III. APPLICANTS' CONTINUING OBLIGATIONS

A. Making Modifications to Applications

12. We remind applicants that Sections 1.65 and 1.2105(b)(4) of the Commission's rules require they maintain the accuracy and completeness of information furnished in their applications to participate in Auction 1002.¹⁷ 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.¹⁸ All changes are subject to review by Commission staff.

13. An applicant that needs to make permissible minor changes to its FCC Form 175, or must make changes in order to maintain the accuracy and completeness of its application during a time when the Auction System is available to the applicant for purposes of making the type of change(s) required, should make such changes to its FCC Form 175 electronically using the Auction System. Between the closing of the resubmission filing window and the release of the *Auction 1002 Qualified Bidders Public Notice*, the only changes an applicant can make using the Auction System are changes to its address or contact person and related information. For all other application changes prior to the release of the *Auction 1002 Qualified Bidders Public Notice*, an applicant must submit a letter briefly summarizing the changes to its FCC Form 175 by email to auCTION1002@fcc.gov.¹⁹

¹⁵ *Supplemental Application Procedures Public Notice*, 30 FCC Rcd at 14183, 14184, paras. 4, 8.

¹⁶ Consistent with the Commission's limited information procedures in place for Auction 1002, the following application information will continue to be withheld from public disclosure until after the close of the auction: an applicant's license area and reserve spectrum eligibility selections, the amount of any upfront payment made by or on behalf of an applicant, any information on an applicant's bidding eligibility (including whether an applicant is eligible to bid on reserve spectrum), and any other bidding-related information that might reveal the identity of the bidders placing bids and taking other bidding-related actions. See *Auction 1000 Bidding Procedures Public Notice*, 30 FCC Rcd at 9046, para. 138 & n.433.

¹⁷ 47 CFR §§ 1.65, 1.2105.

¹⁸ *Id.*

¹⁹ The email 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 email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. 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 again. Questions about FCC Form 175 amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660 or by email to auCTION1002@fcc.gov. See *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11083, para. 146; *Auction 1002 Status Public Notice*, 31 FCC Rcd at 1964, para. 10.

14. For more information on an applicant's continuing obligation to maintain the accuracy and completeness of information furnished in its application to participate in Auction 1002, applicants should refer to previous Broadcast Incentive Auction public notices, including the *Auction 1000 Application Procedures Public Notice* and the *Auction 1002 Status Public Notice*.²⁰

B. Due Diligence

15. We remind each potential bidder that it 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. In addition, 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 during the Post-Auction Transition Period and potential impairments affecting certain licenses;²¹ (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;²² (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.²³ Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

16. We strongly encourage each participant in Auction 1002 to continue such research throughout the auction.²⁴ For further details regarding due diligence, please refer to the *Auction 1000 Application Procedures Public Notice*.²⁵

²⁰ *Auction 1000 Application Procedures Public Notice*, 30 FCC Rcd at 11082-84, paras. 143-148; *Auction 1002 Status Public Notice* at 1963-64, paras. 8-13.

²¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6796, para. 559 (2014) (*Incentive Auction Report and Order*) (modified by Erratum (June 3, 2014)). 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). See also 47 CFR Part 27. 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 release of the public notice announcing the results of the incentive auction and repacking process (*Channel Reassignment Public Notice*). For additional information concerning the incentive auction and 600 MHz Band rules and policies, including impairments affecting certain licenses available in Auction 1002, applicants should refer to orders, public notices, and other releases in GN Docket No. 12-268, AU Docket No. 14-252, and ET Docket No. 14-14.

²² The Commission's statutory authority under the Communications Act of 1934, as amended, 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).

²³ 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).

²⁴ Pending and future administrative and judicial proceedings 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.

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

C. Prohibition of Certain Communications

17. We remind applicants that 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 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

18. The Commission’s rules require covered parties to report violations of the prohibition on certain communications to the Commission.²⁸ Failure to make a timely report under the rule constitutes a continuing violation of the rule, with attendant consequences.

19. For a thorough discussion of the prohibition of certain communications during the incentive auction, please refer to the *Prohibited Communications Public Notice*.²⁹

IV. ADDITIONAL INFORMATION; STAFF CONTACTS

20. Additional information for applicants is available at the Auction 1000 web page (www.fcc.gov/auctions/1000).

21. 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

²⁶ 47 CFR § 1.2105(c)(1). Unlike past spectrum license auctions, the prohibition applies 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 Reports must be filed with Margaret W. Wiener, 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 email 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.

²⁹ See *Guidance Regarding the Prohibition of Certain Communications During the Incentive Auction, Auction 1000*, Public Notice, 30 FCC Rcd 10794 (WTB 2015).

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)

22. To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an email 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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