



PUBLIC NOTICE

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INCENTIVE AUCTION OF UPPER MICROWAVE FLEXIBLE USE SERVICE LICENSES IN THE UPPER 37 GHz, 39 GHz, AND 47 GHz BANDS FOR NEXT-GENERATION WIRELESS SERVICES

35 APPLICANTS QUALIFIED TO BID IN AUCTION 103

AU Docket No. 19-59

1. By this Public Notice, the Office of Economics and Analytics (OEA), in conjunction with the Wireless Telecommunications Bureau (WTB), identify 35 applicants that are qualified to bid in Auction 103.¹ Auction 103 will offer 14,144 Upper Microwave Flexible Use Service (UMFUS) licenses in the Upper 37 GHz, 39 GHz, and 47 GHz bands. Bidding in the clock phase of Auction 103 is scheduled to begin on December 10, 2019.² This Public Notice addresses the continuing obligations for all Auction 103 applicants, including those that are not qualified to bid, as well as all existing 39 GHz licensees. It also sets forth bidding procedures and other important information regarding Auction 103.

I. QUALIFIED BIDDERS AND NON-QUALIFIED APPLICANTS

2. The short-form applications to participate in Auction 103 (FCC Form 175) have been reviewed for completeness and compliance with the Commission’s rules, and the applicants have been classified into the categories listed below.

Qualified	35 applicants
Non-Qualified	4 applicants

3. **Qualified Bidders.** Attachment A to this Public Notice lists the names of the 35 qualified bidders. Attachment A also indicates whether the applicant has claimed eligibility for a small business or rural service provider bidding credit.³ For those applicants claiming a small business status, the attachment lists each qualified bidder’s claimed bidding credit revenue range. Designation of an applicant as qualified to bid in the auction indicates that the applicant has provided the certifications and

¹ A copy of this Public Notice will be sent to the contact person listed on the FCC Form 175 for each Auction 103 applicant.

² *Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 103; Bidding in Auction 103 Scheduled to Begin December 10, 2019*, Public Notice, 34 FCC Red 5532 (2019) (*Auction 103 Procedures Public Notice*).

³ Two applicants, Engelbrecht Enterprises, LLC and W.A.T.C.H. TV Company, that have been determined to be qualified bidders in Auction 103 amended their respective short-form applications to state that each applicant is no longer seeking the bidding credit initially requested in their respective short-form applications. Therefore, Attachment A to this Public Notice shows that these two qualified bidders are not eligible for a bidding credit in this auction.

information concerning its qualifications for participation in the auction, as required by the Commission's competitive bidding rules, and that the applicant timely submitted a sufficient upfront payment.⁴

4. In order to participate effectively in the auction, each qualified bidder should carefully review the auction rules, procedures, and other information described in the *Auction 103 Procedures Public Notice* and subsequent public notices.⁵ These public notices and other documents related to Auction 103 are available on the Auction 103 website in the Releases section at www.fcc.gov/auction/103. This Public Notice provides additional guidance for qualified bidders.

5. **Non-Qualified Applicants.** Attachment B to this Public Notice lists each applicant that submitted an FCC Form 175 but did not qualify to bid in Auction 103. All applicants, including those that have been deemed not qualified to bid, remain subject to the Commission's rules prohibiting certain communications pertaining to bids and bidding strategies.⁶

II. REGISTRATION AND ACCESS TO THE AUCTION BIDDING SYSTEM

A. Registration Materials

6. All qualified bidders have been automatically registered for the auction. Registration materials will be sent by overnight delivery to the contact person at the contact person's address identified in the qualified bidder's FCC Form 175.⁷ Upon receipt, each qualified bidder should possess the following:

- At least two RSA SecurID® tokens (RSA tokens);⁸
- A web address and instructions for accessing and logging in to the FCC clock auction bidding system;
- An FCC assigned username (user ID) for each authorized bidder; and
- The FCC Auction Bidder Line telephone number.

⁴ See 47 CFR §§ 1.2105, 1.2106, 1.2112. Under the Commission's two-phased auction application process, a winning bidder must submit a long-form application (FCC Form 601) after the close of bidding in an auction to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the requested bidding credit. Thus, a determination that a short-form application (FCC Form 175) to participate in Auction 103 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; *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). Commission staff generally considers an applicant's qualifications and eligibility for a bidding credit after the auction during the long-form application process. 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.

⁵ See generally *Auction 103 Procedures Public Notice*, 34 FCC Rcd 5532.

⁶ See 47 CFR § 1.2105(c); *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547, para. 42 & n.90.

⁷ This package will require a signature for delivery to confirm receipt by the applicant. The person signing for the package does not need to be the contact person identified in the qualified bidder's short-form application.

⁸ Each qualified bidder has been issued either two or three RSA tokens depending on the number of authorized bidders it identified on its FCC Form 175. A bidder with three authorized bidders has been issued three RSA tokens. A bidder with one or two authorized bidder(s) has been issued an RSA token for each of its authorized bidders, plus one extra RSA token. The extra RSA token cannot be used unless the contact person, certifier, or an authorized bidder for the qualified bidder contacts the FCC to activate the extra token for a specific additional authorized bidder or for an authorized bidder whose RSA token has been lost or damaged.

7. A qualified bidder must have the above-referenced registration materials to participate in the mock auction and to bid in the clock phase of Auction 103.⁹ 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 Tuesday, November 26, 2019**, should contact the Auctions Hotline at (717) 338-2868. Receipt of the registration mailing is crucial to participating in the clock phase mock auction and the actual auction. Each qualified bidder is responsible for ensuring that it has received all the registration materials listed above.

8. Each qualified bidder is solely responsible for ensuring the security and functionality of its computer systems, Internet connection(s), and its registration materials, in addition to ensuring that only authorized bidders place bids on its behalf. The Commission assumes no responsibility or liability for these matters. **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.**

B. Registration Material Replacement

9. In the event that a qualified bidder's RSA tokens are lost or damaged, only an authorized bidder, the contact person, or the certifying official on the applicant's FCC Form 175 may request replacements. To do so, call the Auction Bidder Line at the telephone number provided in the registration materials, or the Auctions Hotline at (717) 338-2868.

C. Access to the Bidding System

10. The Commission will conduct the mock auction and bidding in the clock phase of Auction 103 electronically over the Internet and will provide the option of telephonic bidding using the Auction Bidder Line. Each qualified bidder will receive in its registration materials the web address for accessing the bidding system and the phone number for the Auction Bidder Line.

11. Each authorized bidder must have his or her own RSA token to access the bidding system and place bids electronically or by telephone in the mock auction and clock phase of Auction 103. For security purposes, the RSA tokens and their instructions are sent only to the contact person at the contact address listed on the qualified bidder's FCC Form 175. Each RSA token is tailored to a specific auction and for a specific authorized bidder. RSA tokens issued for other auctions or obtained from a source other than the Commission will not work for Auction 103.

12. There are minimum system requirements for accessing the FCC clock auction bidding system. Bidders must access the FCC clock auction bidding system over the Internet. The following software is required to use the FCC clock auction bidding system:

- Web browser, either of the following is recommended:
 - A recent version of Google Chrome™ (preferred) or Microsoft® Edge (the browser must be configured to accept cookies and JavaScript)
- Operating system:
 - Microsoft® Windows® 8.1, or Windows® 10; or Apple® Mac OS X® 10.13 or higher
- Access to the Internet
- 1920 x 1080 screen resolution¹⁰

⁹ The contact person is responsible for distributing each RSA token to the specific authorized bidder associated with each token, as well as the relevant information in the registration materials necessary for the authorized bidder to set up his or her access to the bidding system.

¹⁰ Other screen sizes will work, but a minimum of 1920 x 1080 is required to fit all the information from the FCC clock auction bidding system on a single screen without horizontal scrolling. If all the information cannot fit on (continued....)

Smartphones and tablets are not supported.

13. Users should test their computer configurations and browser(s) with the FCC clock auction bidding system in advance of the auction—for example, during the mock auction. Any user attempting to access the FCC clock auction bidding system with a computer configuration or device that does not meet the requirements listed in the user guide is solely responsible for any resulting failure to access the clock auction bidding system, failure to do so in a timely manner, or failure of the bidding system to process the user’s attempted bidding or other actions (even if it appears to the user that such actions were completed properly).

14. Any bidder may use the Auction Bidder Line as an alternative method of bidding in Auction 103.¹¹ The mock auction provides an opportunity for bidders to bid using the Auction Bidder Line and to become familiar with that process and the time required.

15. Qualified bidders choosing to bid telephonically during the mock auction and Auction 103 should initiate their calls as early as possible during a round. Telephonic bid assistants must use a script, and the length of a call to place bids may vary depending on the complexity and number of bids.¹²

16. RSA tokens can be recycled.¹³ We strongly encourage bidders to return the tokens to the Commission. We will provide pre-addressed envelopes for returning the tokens once bidding is closed.

D. Bidding Contingency Plan

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

18. A qualified bidder should ensure that each of its authorized bidders can access and place bids in the FCC auction bidding system, without relying upon the same computer. Contingency plans will ideally include arrangements for accessing and placing bids in the bidding system from one or more alternative locations.

19. We remind bidders that their contingency plans might include, among other arrangements, calling the Auction Bidder Line. If a bidder encounters a situation in which it must implement its backup plan and call the Auction Bidder Line, it should do so as soon as possible and as early in the round as possible. Calling at the beginning of a round will help ensure that the call can be completed before the end of the round. Failure to call early in the round may affect the bidder’s ability to submit some or all of its bids before the round closes. Even if a bidder does not plan to bid using the Auction Bidder Line, we encourage all bidders to do so at least once during the mock auction.

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your display, you can either zoom out using your Internet browser or scroll right and left using the scroll bars. To adjust the zoom, hold down the control (“ctrl”) key and use the “+” and “-” keys to zoom in and out.

¹¹ The Auction Bidder Line telephone number will be supplied in the registration materials sent to each qualified bidder.

¹² Because the length of a call to place bids may vary, a bidder should initiate his or her call no less than 10 minutes prior to the scheduled end of the bidding round.

¹³ An RSA token can only be recycled if it is returned in good condition with nothing written or glued on it.

20. If for any reason a bidder fails to submit all its bids before the round closes, it may lose some or all of its bidding eligibility.¹⁴ If a bidder loses all of its bidding eligibility, it will no longer be able to bid in the auction. The Commission will not be able to restore any portion of a bidder's lost bidding eligibility.

III. EDUCATIONAL MATERIALS AND IMPORTANT UPCOMING EVENTS AND DATES

21. Below we provide information regarding the availability of educational and informational materials, and the opportunity for qualified bidders to participate in a mock auction prior to the start of bidding in the clock phase of Auction 103.¹⁵ The documents described below are available in the Education section of the Auction 103 website at www.fcc.gov/auction/103, where they will remain accessible for reference.

A. Clock Phase Bidding System User Guide

22. The Auction 103 Clock Phase Bidding System User Guide describes the features and functionality of the bidding system that will be used in the clock phase of Auction 103. Bidders are encouraged to read the user guide prior to participating in the mock auction in order to familiarize themselves with the clock auction bidding system.

B. Clock Phase Bidder Data File Formats

23. Qualified bidders in the auction will have access through the bidding system to certain detailed information related to the results of bidding. The file formats document provides, for each data file, an overall description of the file, the data fields that are included (with definitions of the data elements in each field), the data type, examples, and notes. Sample data files are also provided.

C. Clock Phase Bidding Tutorial

24. A tutorial available online provides information about the procedures for the clock phase as well as how the bidding system reflects those procedures. The tutorial allows viewers to navigate the presentation outline, review written notes, listen to an audio recording of the notes, and search for topics. Additional features of this web-based tool include links to auction-specific Commission releases, email links for contacting Commission auctions and licensing staff, and screen shots of the clock auction bidding system. The online tutorial will be accessible from the Auction 103 website through a link in the Education section by November 19, 2019. Once posted, the tutorial will remain available and accessible on the Auction 103 website for reference.

D. Clock Phase Mock Auction

25. All qualified bidders in Auction 103 will be eligible to participate in a clock phase mock auction on Thursday, December 5, 2019. We strongly encourage each qualified bidder in Auction 103 to participate in the clock phase mock auction as it provides an opportunity for the bidder to bid in simulated clock phase rounds in order to become more familiar with the clock auction bidding system and the telephonic bid process and to test its contingency plans.

26. A qualified bidder can access the clock phase mock auction at the web address provided to qualified bidders in the registration materials. Telephonic bidding will be available as well.

¹⁴ See *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5590, para. 192.

¹⁵ Information regarding the availability of educational materials and a mock auction for the assignment phase will be released in a public notice sufficiently in advance of bidding in the assignment phase so that participants have adequate time to prepare before the beginning of that phase.

27. The setup of the mock auction will differ in some aspects from the setup for bidding in Auction 103. A qualified bidder's assigned Partial Economic Areas (PEAs) and eligibility in the clock phase mock auction will not represent the actual PEAs for which it is qualified to bid or its eligibility based on its actual upfront payment. For the clock phase mock auction, each qualified bidder will be assigned a randomly-selected set of PEAs on which it may bid and eligibility for a specified number of bidding units based on the bidding units associated with these assigned PEAs. A qualified bidder will be assigned the same number of PEAs as it selected on its FCC Form 175, up to a maximum of 100 PEAs. The clock phase mock auction will otherwise follow the rules governing Auction 103. Each qualified bidder that claimed eligibility for a bidding credit will have that bidding credit in the mock auction. A qualified bidder that is a 39 GHz incumbent will be assigned the actual weighted MHz-pops for the aggregated licenses relinquished by its initial commitment. The mock auction will simulate the start of the auction. If a bidder fails to submit all its bids before the round closes, it may lose some or all of its bidding eligibility. If a bidder loses all of its bidding eligibility, it will no longer be able to bid in the mock auction.

28. Each qualified bidder will be able to access its assigned mock auction data through the clock phase mock auction starting at noon Eastern Time (ET) on December 4, 2019. The mock auction bidding schedule for Thursday, December 5, 2019 will be as follows:

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

IV. AUCTION INFORMATION

A. Bidding Schedule

29. Bidding in the clock phase of Auction 103 will begin Tuesday, December 10, 2019, with the following schedule:

Bidding Round	10:00 a.m. – 12:00 p.m. ET
Bidding Round	2:00 p.m. – 4:00 p.m. ET

30. The bidding schedule starting on Wednesday, December 11, 2019, and continuing each business day until further notice, will be:

Bidding Round	10:00 a.m. – 11:00 a.m. ET
Bidding Round	1:00 p.m. – 2:00 p.m. ET
Bidding Round	4:00 p.m. – 5:00 p.m. ET

31. We will set the pace of the auction based upon our assessment of the auction's progress. We will provide notice of all subsequent schedule changes by announcement in the FCC clock auction bidding system and the Public Reporting System (PRS) during the course of the auction.

B. Auction Announcements

32. We will post pertinent auction information as announcements in the FCC clock auction bidding system. Each bidder should check for announcements each time it enters the bidding system and should click on and read the entirety of each announcement carefully. Announcements convey important auction information, such as bidding schedule changes.

C. Bid Amounts

33. The minimum opening bid amounts for the licenses available in Auction 103 are set forth in the electronic Attachment A files available in the Summary section of the Auction 103 website at www.fcc.gov/auction/103. Clock prices for subsequent bidding rounds will be set by adding a fixed percentage to the previous round's price at an increment of between 5% and 15%, with the initial increment set at 10%.¹⁶ The increments may be changed during the auction on a PEA-by-PEA or category-by-category basis based on bidding activity to ensure that the system can offer appropriate price choices to bidders.¹⁷

34. We caution each qualified bidder to place its bids carefully because each bidder assumes a binding obligation to pay the final clock phase price for its winning bids (adjusted by any assignment phase payments) should the bidder become a clock phase winning bidder, even if the bid was mistakenly or erroneously made.¹⁸

D. Watchlists

35. A qualified bidder may create watchlists containing license areas of its own choosing, and license areas may appear in multiple watchlists. A bidder may begin creating its watchlists when access to the bidding system becomes available as indicated in the registration materials. Instructions for creating watchlists are provided in the FCC Auction 103 Clock Phase Bidding System User Guide. Please note that watchlists created in the clock phase mock auction will be for the mock auction only. Bidders will need to create new watchlists for bidding in Auction 103.

E. Round Results

36. Round results will typically be available within 15 minutes after the close of each round. We remind bidders that the results of their bidding are subject to procedures that limit the disclosure of information on bidder interests and identities until after the close of bidding in Auction 103.¹⁹

37. 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 bidding system. The public information will be available on the PRS at <https://auctiondata.fcc.gov>, for which there is a link in the Results section of the Auction 103 website at www.fcc.gov/auction/103. When a bidder is logged in to the FCC clock auction bidding system, it will have access to a record of the bids it placed on the Bid Summary screen and will have access to the results of its bids on the My Results screen. These features can be accessed using the links in the bidding system's navigation bar. This information will also be available for the bidder to download.

38. Detailed instructions for reviewing and downloading round results are provided in the FCC Clock Phase Bidding System User Guide. The user guide is available in the Education section of the Auction 103 website at www.fcc.gov/auction/103 and will remain available and accessible on the Auction 103 website for reference.

F. Bidder Questions During Auction 103 and the Mock Auction

39. Commission auction staff and technical support staff will be available during the auction and the mock auction. Only a person who has been designated as an authorized bidder, the contact

¹⁶ See *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5592, paras. 198-99.

¹⁷ *Id.* at 5592, para. 199.

¹⁸ See 47 CFR § 1.2104(g); *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5598, para. 230.

¹⁹ See *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547, paras. 39-40.

person, or the certifying official on the qualified bidder's FCC Form 175 should 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 question. 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 and have his or her login information and RSA token available. Otherwise, a bidder should refer to the contact information provided in Section VII (Contact Information), below.

G. Bidder Suggestions

40. A bidder may submit suggestions to the Commission staff concerning Auction 103 or future auctions by using the *messages* feature in the bidding system.²⁰ However, this is not an appropriate mechanism for asking time-sensitive questions that may need an immediate response, such as questions about auction procedures or placing bids. Any time-sensitive questions should be directed to the Auction Bidder Line. Commission staff considers all suggestions but may not always provide an individualized response.

V. APPLICANTS' CONTINUING OBLIGATIONS

A. Duty to Maintain Accurate Information in Short-Form Applications

41. We remind applicants that sections 1.65 and 1.2105(b)(4) of the Commission's rules require that they maintain the accuracy and completeness of information furnished in their applications to participate in Auction 103.²¹ 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.²² All changes are subject to review by Commission staff.

42. An applicant that needs to make permissible minor changes to its FCC Form 175,²³ or that must make changes in order to maintain the accuracy and completeness of its short-form application during a time when the FCC auction application system is available to the applicant for purposes of making the type of change(s) required, must make such changes to its FCC Form 175 electronically using the FCC auction application system.²⁴ The applicant must also submit a letter briefly summarizing the

²⁰ To access the *messages* feature, select the Messages link on the navigation pane of the FCC clock auction bidding system. For information on how to use this feature, please see the FCC Clock Phase Bidding System User Guide.

²¹ See 47 CFR §§ 1.65, 1.2105.

²² See *id.*

²³ As described in the Commission's rules, an applicant may make only minor corrections to its short-form application (e.g., changing certain contact information or authorized bidder information). See *id.* § 1.2105(b). A major modification includes a change in license area selection, newly claimed or increased bidding credit, or change in control of the applicant. *Id.*; see also, e.g., *Koch Broadcasting Corp.*, Letter Order, 21 FCC Rcd 147 (WTB/MB 2006) (dismissing short-form application due to major amendment reporting change of control of applicant). We note that we previously granted, *sua sponte*, a limited waiver of the major modification prohibition for those applicants that selected fewer than all available PEAs and whose applications were viewed during the brief period in which the license area selections on applicants' FCC Forms 175 were inadvertently made viewable. See *Incentive Auction of Upper Microwave, Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services; Information on License Area Selections on Short-Form Applications to Participate in Auction 103*, Public Notice, DA 19-1057, at 2 (OEA/WTB Oct. 21, 2019) (*License Area Selection Public Notice*). Those applicants have been notified and were afforded a limited opportunity to change their license area selections. *Id.* at 2-3.

²⁴ An applicant should not use the auction application system outside of the resubmission filing window to make changes to its short-form application for other than administrative changes. An applicant retains electronic access to (continued....)

change(s) to its FCC Form 175 by email to auction103@fcc.gov to the attention of Margaret Wiener, Chief, Auctions Division, Office of Economics and Analytics. The letter summarizing the change(s) must include a subject or caption referring to Auction 103 and the name of the applicant, for example, “Re: Changes to Auction 103 Application of XYZ Corp.” Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant must not submit application-specific material through the Commission’s Electronic Comment Filing System.

43. 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 103, applicants should refer to previous Auction 103 public notices, including the *Auction 103 Procedures Public Notice*.²⁵

B. Due Diligence

44. 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 103. **The Commission makes no representations or warranties about the use of this spectrum or these licenses for particular services. Each applicant should be aware that a Commission auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction.**²⁶ A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success.

45. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, we encourage each potential bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 103 license, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements.²⁷ We urge each applicant to inspect any prospective sites for communications facilities located in, or near, the geographic area for which it plans to bid, confirm the availability of such sites, and to familiarize itself with the Commission’s rules regarding any applicable federal, state, and local requirements.²⁸

46. We also encourage each applicant in Auction 103 to continue to conduct its own research throughout the auction in order to determine the existence of pending or future administrative or judicial proceedings that might affect its decision on continued participation in the auction. Each applicant is

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its Form 175 to make certain administrative changes, including updates to: applicant address, responsible party information, contact information, and bidding option (telephonic or electronic). Auction applicants are not permitted to make a change to the following data fields after the short-form application filing deadline: applicant name, legal classification, certifier, bidding credit, and license area selection.

²⁵ See *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5566-68, paras. 97-105; see also 47 CFR §§ 1.65, 1.2105(b). Questions about FCC Form 175 amendments should be directed to the Auctions Division at (202) 418-0660 or by email to auction103@fcc.gov.

²⁶ See, e.g., *Cellco P’ship v. FCC*, 700 F.3d 534, 542 (D.C. Cir. 2012); *Celtronix Telemetry, Inc. v. FCC*, 272 F.3d 585, 589 (D.C. Cir. 2001) (citing 47 U.S.C. § 309(j)(6)(D)).

²⁷ For additional information concerning the UMFUS rules and policies governing licenses available in Auction 103, applicants should refer to the orders, public notices, and other releases in GN Docket No. 14-177 and AU Docket No. 19-59.

²⁸ See, e.g., 47 CFR Part 1, Subpart I.

responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on licenses available in an auction. The due diligence considerations mentioned in this Public Notice and previous Auction 103 public notices do not constitute an exhaustive list of steps that should be undertaken prior to participating in Auction 103. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests.

47. Applicants 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 the licenses available in Auction 103. Each potential bidder is responsible for undertaking research to ensure that any licenses won in the auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

48. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees, including all existing 39 GHz licensees, and incorporated into its databases. For further details regarding due diligence, please refer to Section III.A of the *Auction 103 Procedures Public Notice*.²⁹

C. Prohibition of Certain Communications

49. We remind applicants that the rules prohibiting certain communications set forth in section 1.2105(c) of the Commission's rules apply to each applicant that filed a short-form application (FCC Form 175) in Auction 103.³⁰ Section 1.2105(c)(1) provides that, subject to specified exceptions, after the deadline for filing a short-form application, "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[.]"³¹ An "applicant" for purposes of this rule includes all "controlling interests" in the entity submitting the FCC Form 175 auction application, as well as all holders of interests amounting to 10% or more of the entity, and all officers and directors of that entity.³² AT&T, Sprint, T-Mobile, and Verizon Wireless are the "nationwide providers" for purposes of this rule in Auction 103.³³ Moreover, the prohibited communications rule for Auction 103 took effect for all existing 39 GHz licensees based on the filing of FCC Form 175-A as part of the Initial Commitment process, even if the existing licensee did not subsequently file FCC Form 175.³⁴

²⁹ *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5568-69, paras. 106-10.

³⁰ 47 CFR § 1.2105(c)(1); *see also Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547, paras. 41-42.

³¹ 47 CFR § 1.2105(c).

³² *Id.* § 1.2105(c)(5)(i); *see also Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547, para. 42.

³³ *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547, para. 43.

³⁴ *Id.* at 5547, para. 44. For the existing 39 GHz licensees, all of whom were identified in an FCC Form 175-A, the prohibition began at the FCC Form 175-A filing deadline on July 15, 2019. *See id.* at 5547-48, para. 45.

50. This prohibition took effect based on FCC Form 175 filings as of the short-form application filing deadline, which for Auction 103 was Monday, September 9, 2019 at 6:00 p.m. ET, and ends at the post-auction down payment deadline for Auction 103, which will be announced in a future public notice.³⁵ **This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid in Auction 103.**³⁶ For further information on the prohibition, applicants should refer to Section II.G. of the *Auction 103 Procedures Public Notice*.³⁷

51. *Disclosure Obligations.* Section 1.2105(c)(4) requires each auction applicant that makes or receives a communication that appears to violate section 1.2105(c) to report the communication in writing to the Commission 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 1.65.³⁸ 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.³⁹

52. *Reporting Prohibited Communication.* Any party reporting any communication pursuant to sections 1.65, 1.2105(a)(2), or 1.2105(c)(4) must take care to ensure that the report does not itself give rise to a violation of section 1.2105(c). To minimize the risk of inadvertent dissemination of a report of a potential prohibited communication, section 1.2105(c)(6) requires a party to file only a single report with the Chief of the Auctions Division in OEA.⁴⁰ For Auction 103, any such report must be filed according to the instructions set forth in the *Auction 103 Procedures Public Notice*.⁴¹

53. *Possible Sanctions.* Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.⁴² In addition, we remind each applicant that it is subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws 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.⁴³

³⁵ *Id.* at 5548, para. 45; *see also* 47 CFR § 1.2105(c)(1).

³⁶ A party that submits an auction application becomes an "applicant" under the rule at the application filing deadline and that status does not change based on subsequent developments. *See, e.g., Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (holding that section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). Thus, an auction applicant that does not correct deficiencies in its application, fails to submit a timely and sufficient upfront payment, or does not otherwise become qualified, remains an "applicant" for purposes of the rule and remains subject to the prohibition on certain communications until the post-auction down payment deadline for Auction 103. *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547, para. 42 n.90.

³⁷ *See Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5547-55, paras. 41-68.

³⁸ 47 CFR § 1.2105(b); *see also Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Seventh Report and Order, 16 FCC Rcd 17546, 17553-55, paras. 13-17 (2001).

³⁹ *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).

⁴⁰ 47 CFR § 1.2105(c)(6); *Procedural Amendments to Commission Part 1 Competitive Bidding Rules*, Order, 25 FCC Rcd 521, 522, para. 4 (2010).

⁴¹ *See Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5553, paras. 62-64.

⁴² *See* 47 CFR §§ 1.2105(c), 1.2109(d).

⁴³ *See id.* § 1.2109(d).

D. Limited Information Procedures

54. We remind applicants that, under the limited information procedures in effect for Auction 103 (sometimes also referred to as anonymous bidding), the Commission is withholding from public release, until after the close of bidding in Auction 103, any information that may indicate specific applicants' interests in the auction—including, among other things, license area selections,⁴⁴ upfront payments and eligibility information, and the identities of bidders placing bids or taking other bidding-related actions.⁴⁵ Accordingly, communication with other applicants or public disclosure of such non-public information may violate the Commission's rule prohibiting certain communications, section 1.2105(c) of the Commission's rules.

55. Therefore, applicants must take care not to communicate non-public information to the public, financial analysts, or the press.⁴⁶ Examples of communications raising concern, given the limited information procedures in effect for Auction 103, would include an applicant's statement to the press about its upfront payment or bidding eligibility, and an applicant's statement to the press that it is or is not interested in bidding in the auction.

E. Submission of Auction-Related Filings

56. A party wishing to submit a request, a complaint, or other information concerning Auction 103 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by email to auCTION103@fcc.gov to the attention of Margaret Wiener, Chief, Auctions Division. We occasionally receive complaints regarding specific bidders and requests to suspend bidding during an auction. While we reserve 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.

F. Ex Parte Rule

57. 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.⁴⁷

⁴⁴ The limited information procedures remain in effect for Auction 103, notwithstanding the brief inadvertent disclosure of applicants' license area selection(s) shortly after the release of the public notice announcing the status of short-form applications to participate in Auction 103. See *License Area Selection Public Notice* at 3, para. 11.

⁴⁵ *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5546-47, paras. 35-40.

⁴⁶ The Commission has long expressed the concern that applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of non-public information relating to auctions, such as bids and bidding strategies. See *Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction*, Public Notice, 13 FCC Rcd 341, 347-48 (WTB 1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

⁴⁷ 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); 47 CFR § 1.1202(d)(1) Note 1.

VI. POST-AUCTION PROCEDURES

58. To ensure prompt receipt of time-sensitive Commission communications, we urge each applicant to verify now the accuracy and completeness of the information for its contact in its Form 175. Corrections to contact information in a Form 175 should be made promptly in preparation for post-auction procedures.

59. Shortly after bidding has ended, we will release a public notice declaring the auction closed and establishing the deadlines for submitting down payments and final payments. Each winning bidder will have 10 business days following the release of that public notice to make down payments. Final payments will be due 10 business days after the deadline for submitting down payments for this auction.

60. Additional information regarding these post-auction procedures is contained in the *Auction 103 Procedures Public Notice* and will be provided in the public notice announcing the winning bidders.⁴⁸

VII. CONTACT INFORMATION

61. Additional information for applicants is available at the Auction 103 website (www.fcc.gov/auction/103).

62. For further information concerning Auction 103, please contact:

General Auction Information

General Auction Questions

FCC Auctions Hotline

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

Auction 103 Process and Procedures

Bidding Procedures
Auction Schedule

Auctions Division, OEA

Auctions Hotline (717) 338-2868

Auction 103 Legal Information

Auction Rules, Policies, Regulations, Including
Reports of Section 1.2105(c) Violations and
Application Modifications

Auctions Division, OEA

(202) 418-0660
Mark Montano
Erik Beith

Licensing Information

Service Rules, Policies, Regulations
Licensing Issues, Engineering Issues
Due Diligence, Incumbency Issues

Broadband Division, WTB

(202) 418-2487
Simon Banyai
Tim Hilfiger

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

⁴⁸ See *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5599-602, paras. 236-52; 47 CFR §§ 1.2107, 1.2109(a).

Payment Information

Instructions for Wiring Auction Payments and
Completing Form 159
Refunds

**FCC Revenue & Receivables Operations
Group/Auctions**

Scott Radcliffe at (202) 418-7518,
Theresa Meeks at (202) 418-2945 or
Gail English at (202) 418-0578
(202) 418-2843 (fax) or email to
RROGWireFaxes@fcc.gov

News Media

Press Questions

Wireless Telecommunications Bureau

Cecilia Sulhoff at (202) 418-0587

63. 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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