



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12<sup>th</sup> Street, SW**  
**Washington, DC 20554**

**News Media Information: 202-418-0500**  
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**DA 19-23**  
**January 31, 2019**

## **AUCTION OF 28 GHz UPPER MICROWAVE FLEXIBLE USE SERVICE LICENSES FOR NEXT-GENERATION WIRELESS SERVICES CLOSES**

### **GROSS WINNING BID AMOUNTS ANNOUNCED FOR AUCTION 101**

**Down Payments Due February 14, 2019**  
**FCC Forms 601 and 602 Due February 14, 2019**  
**Final Payments Due March 1, 2019**

**AU Docket No. 18-85**

#### **I. INTRODUCTION**

1. On January 24, 2019, bidding concluded in an auction of 28 GHz Upper Microwave Flexible Use Service (UMFUS) licenses. This auction, which was designated Auction 101, raised (in gross bids)<sup>1</sup> a total of \$702,572,410 with a total of 2,965 licenses won.

2. This Public Notice specifies deadlines for payments and the filing of long-form applications and gives details for other post-auction procedures. Consistent with the Commission's limited information disclosure procedures for Auctions 101 and 102, the identities of winning bidders will remain non-public until after the close of bidding in Auction 102, the upcoming auction of 24 GHz UMFUS licenses.<sup>2</sup> Accordingly, this Public Notice does not identify winning bidders. Likewise, the auction results that are currently available through the FCC's Public Reporting System (PRS) disclose only the gross winning bid amount for licenses won and list those FCC-held licenses for which no winning bids were received.<sup>3</sup>

3. A copy of this Public Notice will be sent to each qualified bidder via overnight delivery to the contact person at the contact address listed in each qualified bidder's short-form application (FCC

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<sup>1</sup> Gross bids refer to the total amount of provisionally winning bids in Auction 101 at the close of bidding, and do not reflect any small business or rural service provider bidding credits that may be awarded to eligible winning bidders after the auction. Accordingly, the total amount raised in net bids for Auction 101 may be less than the gross bids amount.

<sup>2</sup> Specifically, the Commission has determined that it will not make public until after bidding in both auctions has closed: (1) the licenses or PEAs that an applicant selected for bidding in its FCC Form 175, (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 101 or Auction 102, (3) any applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid. *Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auctions 101 (28 GHz) and 102 (24 GHz); Bidding in Auction 101 Scheduled to Begin November 14, 2018*, Public Notice, 33 FCC Rcd 7575, 7595, para. 50 (2018) (*Auctions 101 and 102 Procedures Public Notice*).

<sup>3</sup> The PRS can be accessed directly at [auctiondata.fcc.gov](http://auctiondata.fcc.gov) or from a link under the "Results" section of the Auction 101 website ([www.fcc.gov/auction/101](http://www.fcc.gov/auction/101)).

Form 175). Each qualified bidder will also receive a confidential letter containing information about the bidder's winning bids, if any, and its Auction 101 payment obligations, if applicable (confidential results letter).<sup>4</sup>

4. Qualified bidders are reminded that the Commission's prohibition on certain communications by auction applicants and its limited information disclosure procedures remain in effect for Auctions 101 and 102. Accordingly, bidders must not disclose their status as a winning or non-winning bidder or any information contained in their confidential letter until after the close of Auction 102. The prohibition on certain communications relating to the auction and limited information disclosure procedures continue to apply until the deadline for winning bidders in Auction 102 to submit down payments. All Auction 101 applicants remain subject to the prohibition regardless of developments during the auction process and regardless of whether they qualified to bid or became winning bidders.

5. Unless otherwise noted, all dates and deadlines described in this Public Notice will not be affected in the event of any future partial government shutdown.

## II. POST-AUCTION DEADLINES AND PROCEDURES

### A. Down Payments – Due Before 6:00 p.m. ET on February 14, 2019

6. The Commission's rules require that within 10 business days after the release of this Public Notice, in this case by **6:00 p.m. Eastern Time (ET) on February 14, 2019**, each winning bidder in Auction 101 must have on deposit with the Commission enough funds to cover the down payment on its winning bid(s).<sup>5</sup> Specifically, each winning bidder's total amount on deposit must be 20 percent of the aggregate net amount of its winning bid(s). Any winning bidder whose upfront payment is not sufficient to meet this requirement must deposit additional funds to meet its required down payment.<sup>6</sup>

7. **All down payments must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on February 14, 2019.** The down payment amount due from a particular winning bidder, if any, will be set out in the bidder's confidential results letter. Note that an additional payment toward the down payment due is necessary only if a winning bidder's upfront payment does not cover the required total down payment (as reflected in the confidential results letter).

8. If a winning bidder fails to complete this down payment process consistent with the payment method described in this Public Notice by 6:00 p.m. ET on February 14, 2019, it will be in default.<sup>7</sup>

### B. Final Payments

9. Each winning bidder in Auction 101 must submit a payment of the balance of the net payment amount for its winning bid(s), as set out in its confidential results letter.<sup>8</sup> **This payment must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on March 1, 2019, to avoid a late fee or default. A late payment after this deadline must be made by wire transfer as instructed in**

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<sup>4</sup> Each confidential letter will list the down payment and final payment owed by, or refund due to, the bidder, as applicable. If the qualified bidder withdrew a bid during the auction, the confidential letter will also list the amount of any withdrawal payments owed by the bidder.

<sup>5</sup> 47 CFR § 1.2107(b); *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7658, para. 284.

<sup>6</sup> 47 CFR § 1.2107(b).

<sup>7</sup> See Section II.D (Withdrawal, Default, and Disqualification Payments), below.

<sup>8</sup> 47 CFR § 1.2109(a).

**this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on March 15, 2019, along with the five percent late fee required by Section 1.2109(a) of the Commission's rules to avoid default.**<sup>9</sup> Note that an additional payment toward the final payment due is necessary only if a winning bidder's upfront payment does not cover the required total down payment and final payment (as reflected in the confidential results letter).

10. If a winning bidder fails to complete the final payment process consistent with the payment method described in this Public Notice by 6:00 p.m. ET on March 1, 2019 (or by 6:00 p.m. ET on March 15, 2019, along with the five percent late fee), it will be in default.<sup>10</sup>

11. A winning bidder's request for a tribal lands bidding credit has no effect on the bidder's obligations to make any auction payments, including down payments and final payments, that are due before the award of the credit.<sup>11</sup> Thus, a winning bidder's final payment and any applicable late fees must be paid in full by the due date even if the winning bidder has applied for a tribal lands bidding credit.<sup>12</sup> If a request for a tribal lands bidding credit is approved, the amount of the credit will be calculated and awarded prior to license grant.<sup>13</sup>

### C. Method of Payment for Down Payments and Final Payments

12. All down payments and final payments must be made by wire transfer to the Commission's account at the U.S. Treasury in accordance with the instructions in this Public Notice by the applicable deadline. **We urge winning bidders to pay close attention to the payment instructions we announce here because they differ from instructions provided in past auctions and from upfront payment procedures for this auction.** If a winning bidder has any questions about making a down or final payment, the winning bidder should contact Gail Glasser of the Office of the Managing Director's Revenue & Receivables Operation Group/Auctions at (202) 418-0578, [Gail.Glasser@fcc.gov](mailto:Gail.Glasser@fcc.gov), well in advance of the applicable deadlines.

13. The Commission will not apply any amounts on deposit from Auction 101 toward the Auction 102 applicant upfront payment.<sup>14</sup>

14. All payments must be in U.S. dollars and made in the form of a wire transfer.<sup>15</sup> No checks, credit card payments, automated clearing house (ACH), or other forms of payment will be accepted. Each winning bidder is responsible for ensuring timely submission of its down payment and its final payment, if required. To avoid untimely payments, each winning bidder should discuss arrangements with its financial institution (including the institution's closing schedule) several days before it plans to make the wire transfer, and each should allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction

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<sup>9</sup> *Id.*

<sup>10</sup> See Section II.D (Withdrawal, Default, and Disqualification Payments), below.

<sup>11</sup> 47 CFR § 1.2110(f)(3)(vi).

<sup>12</sup> *Id.* § 1.2109(a).

<sup>13</sup> *Id.* § 1.2110(f)(3)(vi).

<sup>14</sup> Information on the upfront payment deadline and procedures will be announced in a separate public notice.

<sup>15</sup> The wire transfer must be initiated by the winning bidder through its bank authorizing the bank to wire funds from the bidder's account to the Commission's account designated to receive payments for financial obligations resulting from Auction 101.

participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.<sup>16</sup>

15. Each winning bidder is responsible for obtaining confirmation from its financial institution that its wire transfer to the U.S. Treasury was successful and from Commission staff that each payment was timely received and deposited into the proper account. To receive confirmation from Commission staff, contact Gail Glasser at (202) 418-0578, [Gail.Glasser@fcc.gov](mailto:Gail.Glasser@fcc.gov). Office of Managing Director (OMD) staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

16. Each payer must include specified information in its wire transfer instructions provided to its bank, as described below. **In a change of practice from prior auctions, the Commission no longer requires the submission of a completed FCC Remittance Advice Form (Form 159) with down payments or final payments.**<sup>17</sup> The Commission will credit any such payment based on the information accompanying the wire transfer. To submit funds by wire transfer, the winning bidder must include the following information in its wire transfer instructions:

ABA Routing Number: **021030004**

Receiving Bank: **TREAS NYC**

33 Liberty Street

New York, NY 10045

ACCOUNT NAME: **FCC**

445 12<sup>th</sup> Street, SW

Washington, DC 20554

ACCOUNT NUMBER: 27000001

Originating Bank Information (OBI Field): (Skip one space between each information item)

“AUCTIONPAY”

APPLICANT FCC REGISTRATION NUMBER (FRN): (use the same FRN as used on the FCC Form 175)

PAYMENT TYPE CODE: (“D101”)

PAYER NAME

PAYER FCC REGISTRATION NUMBER (FRN): (If different from applicant FRN)

**CONTACT NAME AND PHONE NUMBER OR EMAIL ADDRESS**

17. Each winning bidder that must make a payment to meet its down and/or final payment obligations will find enclosed with its confidential results letter a partially completed Form 159, FCC Remittance Advice Form, for each required payment to confirm the amount to be remitted in the wire transfer information. This Form 159 is solely for your records. **It is not necessary for you to fax or email a copy of Form 159 to the FCC or the U.S. Treasury.** Please direct questions concerning the calculation and submission of down payments, final payments, or refunds to Gail Glasser at (202) 418-0578. OMD staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

<sup>16</sup> See, e.g., Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., FCC, to Lee G. Petro, counsel for Four Corners Broadcasting, LLC, 25 FCC Rcd 9046 (WTB 2010); Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., FCC, to David G. O’Neil, counsel for Spectrum Acquisitions, Inc., 23 FCC Rcd 4765 (WTB 2008); Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., FCC, to Patrick Shannon, counsel for Lynch 3G Communications Corp., 18 FCC Rcd 11552 (WTB 2003).

<sup>17</sup> Form 159 will continue to be used in future auctions for upfront payments only.

**D. Withdrawal, Default, and Disqualification Payments**

18. The Commission imposes payment obligations on bidders that withdraw provisionally winning bids during the course of an auction, on bidders that default on payments due after an auction closes, and on bidders that are disqualified.<sup>18</sup>

**1. Bid Withdrawal Payments**

19. A bidder that withdraws a provisionally winning bid during the course of an auction is subject to a bid withdrawal payment obligation equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.<sup>19</sup> No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid.<sup>20</sup>

20. If a provisionally winning bid is withdrawn on a license that remains unsold at the close of the auction, the bidder will be required to make an interim payment equal to 15 percent of the net amount of the withdrawn bid.<sup>21</sup> This payment amount is deducted from any upfront payments or down payments that the bidder has deposited with the Commission.<sup>22</sup> If, in any subsequent auction of 28 GHz licenses, that license receives a bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed and, upon appropriate request, the Commission will refund the interim payment. If, in a subsequent auction, the winning bid amount for that license is less than the original bidder's withdrawn bid amount, then the withdrawing bidder will be required to make a final bid withdrawal payment equal to either the difference between its net withdrawn bid and the subsequent net winning bid, or the difference between its gross withdrawn bid and the subsequent gross winning bid, whichever difference is smaller. The interim payment will be applied toward the final bid withdrawal payment.

21. Each qualified bidder that withdrew a bid during Auction 101 will receive in its confidential results letter a calculation of the withdrawal payment amount owed to the Commission as a result of its bid withdrawal(s). Any upfront payment or down payment that the withdrawing bidder has deposited with the Commission will first be applied to satisfy the withdrawal payment amount(s) due before being applied toward a winning bidder's down payment.

**2. Default and Disqualification Payments**

22. If a winning bidder defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment and any withdrawal payment(s) by the specified deadline, fails to submit a timely long-form application, fails to make full payment of the balance of its winning bid(s) by the specified deadline, or is otherwise disqualified for any reason), the defaulting bidder will be subject to

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<sup>18</sup> See 47 CFR §§ 1.2104(g), 1.2109.

<sup>19</sup> See *id.* § 1.2104(g)(1).

<sup>20</sup> *Id.*

<sup>21</sup> See *id.*; see also *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7643-44, para. 212.

<sup>22</sup> See 47 CFR §§ 1.2104(g)(1), 1.2106(d). If the withdrawing bidder is a winning bidder, the total amount it will be required to have on deposit by the down payment deadline will be any amount owed for its bid withdrawal(s) plus 20 percent of the net amount of its winning bids. If the bidder fails to pay both the withdrawal payment and down payment owed by that deadline, it will be in default. In the event that a withdrawing bidder is not a winning bidder and its deposits with the Commission do not fully cover the amount of any withdrawal payment, the Commission will separately assess, and the withdrawing bidder will be required to pay, such difference.

the payment obligations described in Section 1.2104(g)(2) of the Commission's rules.<sup>23</sup> These payment obligations include a deficiency payment and an additional payment amount. The deficiency payment component applies only in the event that the subsequent winning bid the next time a license covering the same spectrum is won in an auction is less than the defaulted bid. The deficiency payment amount is equal to the difference between the amount of the defaulter's bid and the amount of the subsequent winning bid. The additional payment amount is owed by each defaulting bidder and is equal to a percentage of the defaulter's bid or the subsequent winning bid, whichever is less.<sup>24</sup> The additional default payment for Auction 101 licenses was set at 15 percent of the applicable bid.<sup>25</sup>

23. If a winning bidder fails to remit the required down payment by the February 14, 2019 deadline specified in this Public Notice, the bidder will be deemed to have defaulted, its long-form application will be dismissed, and it will be liable for a default payment as described above.<sup>26</sup>

24. If a winning bidder fails to pay the balance of its winning bid in a lump sum by the deadline specified in this Public Notice, it will be allowed to make a late payment within 10 business days after the payment deadline, provided that it also pays a late fee equal to 5 percent of the amount due.<sup>27</sup> If a winning bidder fails to pay (a) the balance due for its winning bid(s) by the payment deadline on March 1, 2019, and (b) the balance of its winning bid(s) plus the late fee by the late payment deadline on March 15, 2019, it will be deemed to have defaulted, and it will be subject to applicable default payments.<sup>28</sup>

25. The Commission will review an applicant's long-form application (FCC Form 601) only after receipt of full and timely payment for the winning bid(s) and any applicable late fees. The relevant license will be granted only after full and timely payment of any winning bids (and any applicable late fees) and a determination that the long-form application meets Commission requirements for grant.<sup>29</sup>

26. A bidder that is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, in addition to any other applicable sanctions, may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.<sup>30</sup>

#### **E. Refund of Excess Payments**

27. Upfront payment monies on deposit with the Commission that are in excess of an applicant's Auction 101 obligations will be refunded to the payer of record, as identified on the FCC Form 159 submitted with the applicant's upfront payment, unless that payer submits written authorization instructing otherwise.<sup>31</sup> To receive a refund, an applicant must submit a written refund

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<sup>23</sup> *Id.* § 1.2104(g)(2); *see also id.* § 1.2109; *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7660, para. 294.

<sup>24</sup> 47 CFR § 1.2104(g)(2); *see also id.* § 1.2109; *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7660, para. 294.

<sup>25</sup> *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7660, para. 295.

<sup>26</sup> 47 CFR §§ 1.2104(g)(2), 1.2109(b).

<sup>27</sup> *Id.* § 1.2109(a).

<sup>28</sup> *Id.* §§ 1.2104(g)(2), 1.2109(a), (c).

<sup>29</sup> *See id.* § 1.2109(a).

<sup>30</sup> *Id.* § 1.2109(d).

<sup>31</sup> As previously explained, since the upfront payments for each auction will be deposited and maintained in separate accounts, we will not apply a bidder's refund of its upfront payment balance from Auction 101 to its upfront (continued....)

request with the information indicated in paragraph 27. Each applicant can provide this information by using the FCC auction application system to file its refund information electronically using the **Refund Form** icon found on the *Auction Application Manager* page. After the required information is completed on the blank form, the form should be printed, signed, and submitted to the Commission by fax, email, or mail as instructed below.

28. If you have elected not to access the Refund Form through the *Auction Application Manager* page, the Commission requests that all information listed below be supplied in writing.

Name, address, contact, and phone number of Bank  
 ABA Number  
 Account Number to Credit  
 Name of Account Holder  
 FCC Registration Number (FRN)

The refund request must be submitted by fax to the Revenue & Receivables Operations Group/Auctions at (202) 418-2843, by email to [RROGWIREFAXES@fcc.gov](mailto:RROGWIREFAXES@fcc.gov), or by mail to:

Federal Communications Commission  
 Financial Operations  
 Revenue & Receivables Operations Group/Auctions  
 Gail Glasser  
 445 12<sup>th</sup> Street, SW, Room 1-C864  
 Washington, DC 20554

29. An applicant seeking a refund should verify that the Tax Identification Number (TIN) associated with its FRN is correct by visiting the FCC Registration Number website at <https://apps.fcc.gov/coresWeb/publicHome.do> to update its records before submitting a refund request. A refund request related to an FRN with no TIN on file cannot be processed until a TIN is provided.

30. Refund processing generally takes up to two weeks to complete. Any questions concerning refunds should be directed to Gail Glasser at (202) 418-0578, [Gail.Glasser@fcc.gov](mailto:Gail.Glasser@fcc.gov). OMD staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

**F. Post-Auction (Long-Form) License Application (FCC Form 601) – Due Before 6:00 p.m. ET on February 14, 2019**

31. Each winning bidder must submit electronically a properly-completed long-form application (FCC Form 601) for all licenses for which it was the winning bidder in Auction 101 before **6:00 p.m. ET on February 14, 2019**.

32. Instructions for completing the long-form application (FCC Form 601) are available on the Auction 101 website ([www.fcc.gov/auction/101](http://www.fcc.gov/auction/101)) under the “Education” tab (Instructions for Completing FCC Form 601 and FCC Form 602). These instructions also describe how certain information will be automatically transferred from a winning bidder’s short-form application (FCC Form 175) to its long-form application (FCC Form 601). A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility in its long-form application for the bidding credit claimed.<sup>32</sup> Winning bidders organized as bidding consortia must comply with the FCC Form 601 post-auction application procedures set forth in Section 1.2107(g)

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 payment balance for Auction 102. *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7660, para. 298 n.497.

<sup>32</sup> 47 CFR § 1.2112(b).

of the Commission's rules.<sup>33</sup> For further information regarding long-form application filing requirements, including specific requirements for applicants requesting a bidding credit and for winning bidders organized as consortia, please see the Instructions for Completing FCC Form 601 and FCC Form 602.

33. A winning bidder that fails to submit the required long-form application before the specified deadline in this Public Notice and fails to establish good cause for any late-filed submission shall be deemed to have defaulted and shall be subject to the payments set forth in Section 1.2104(g) of the Commission's rules.<sup>34</sup>

#### **G. Tribal Lands Bidding Credit**

34. The Commission has implemented a tribal lands bidding credit to encourage the growth of wireless services on the lands of federally-recognized tribes. A winning bidder that intends to use its license(s) to deploy facilities and to provide services to federally-recognized tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or less than 85 percent is eligible to receive a tribal lands bidding credit as set forth in Sections 1.2107 and 1.2110(f) of the Commission's rules.<sup>35</sup> A tribal lands bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

35. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal lands bidding credit after the auction when it files its FCC Form 601 post-auction application. The winning bidder should file a single separate application for all of the licenses won in the auction for which the winning bidder intends to seek a tribal lands bidding credit. When initially filing this tribal lands bidding credit specific application, the winning bidder will be required to advise the Commission that it intends to seek a tribal lands bidding credit for each license listed on the application by checking the designated box(es). After stating its intent to seek a tribal lands bidding credit, the winning bidder will have 180 days from the close of the post-auction application filing window to amend its application to select the specific tribal lands to be served and to provide the required tribal government certifications. Licensees receiving a tribal lands bidding credit are subject to performance criteria as set forth in Section 1.2110(f)(3)(vii) of the Commission's rules.<sup>36</sup>

36. For additional information on the tribal lands bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rulemaking proceeding regarding tribal lands bidding credits and related public notices.<sup>37</sup> For additional information about the information

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<sup>33</sup> *Id.* § 1.2107(g); *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7658-59, para. 288; *see also Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, Report and Order, 21 FCC Rcd 891, 911-12, paras. 51-52 (2006); *Updating Part 1 Competitive Bidding Rules et al.*, Order on Reconsideration of the First Report and Order; Third Order on Reconsideration of the Second Report and Order; Third Report and Order, 30 FCC Rcd 7493, 7535, para. 101 (2015) (modified by Erratum, 30 FCC Rcd 8518 (2015)).

<sup>34</sup> 47 CFR §§ 1.2104(g), 1.2107(c).

<sup>35</sup> *Id.* §§ 1.2107, 1.2110(f).

<sup>36</sup> *See id.* § 1.2110(f)(3)(ii)-(vii).

<sup>37</sup> *See generally Extending Wireless Telecommunications Services to Tribal Lands*, Report and Order and Further Notice of Proposed Rule Making, 15 FCC Rcd 11794 (2000); Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 4775, 4778-79, para. 10 (2003); Third Report and Order, 19 FCC Rcd 17652 (2004); *see also Wireless Telecommunications Bureau Announces Enhancements to the Universal Licensing System to Help Winning Bidders of FCC Auctions File for Tribal Land Bidding Credits*, Public Notice, 16 FCC Rcd 5355 (WTB 2001); *Wireless Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands*, Public Notice, 15 FCC Rcd 24838 (WTB 2000); *Wireless Telecommunications Bureau Announces Availability of Bidding Credits for Providing Wireless Services to* (continued....)



that a winning bidder must provide in its long-form application if it wishes to claim the tribal lands bidding credit, please see the Instructions for Completing FCC Form 601 and FCC Form 602.

#### **H. Ownership Disclosure Information Report (FCC Form 602)**

37. Pursuant to Sections 1.913, 1.919, and 1.2107(f) of the Commission's rules, an applicant for a license offered at auction must, at the time of submitting its FCC Form 601, have on file with the Commission a current ownership disclosure information report (FCC Form 602) that provides the applicant's complete and accurate ownership information.<sup>38</sup> As explained in the Instructions for Completing FCC Form 601 and FCC Form 602, filing an ownership disclosure information report (FCC Form 602) is a separate requirement from, and in addition to, the ownership reporting requirements associated with filing an FCC Form 601, Exhibit A.<sup>39</sup> A winning bidder should carefully follow the instructions set forth in the Instructions for Completing FCC Form 601 and FCC Form 602 when filing its ownership disclosure report. Consistent with the Commission's limited information disclosure procedures for Auctions 101 and 102, FCC Forms 602 filed by qualified bidders in Auction 101 will not be publicly available, to ensure that the identities of winning bidders will remain non-public until after the close of bidding in Auction 102.<sup>40</sup> These FCC Forms 602, along with the FCC Forms 601 filed by the winning bidders, will become public after the close of bidding in Auction 102.

#### **I. Maintaining Accuracy of Information**

38. Now that Auction 101 has closed, all required changes to an Auction 101 applicant's information must be made by filing or amending the applicant's long-form application(s) (FCC Form 601) in the Commission's Universal Licensing System (ULS).<sup>41</sup> With the release of this Public Notice, an Auction 101 applicant is no longer required to continue maintaining the accuracy and completeness of information furnished in its Auction 101 short-form application (FCC Form 175) and exhibits.

#### **J. Application Processing, Petitions to Deny, and License Grant**

39. After its initial review of the long-form applications, the Bureau will issue a public notice listing the applications that are acceptable for filing. Consistent with the Commission's limited information disclosure procedures for Auctions 101 and 102, the Bureau will release a public notice listing the applications that are acceptable for filing for Auction 101 (e.g., release the names of Auction 101 winning bidders and their respective net winning bid amounts) only after the close of bidding in Auction 102. Pursuant to Section 1.2108(b) of the Commission's rules, interested parties will have 10 days from the release of that public notice within which to file petitions to deny any of these applications.<sup>42</sup> An applicant may file an opposition to any petition to deny within five business days after the time for filing petitions to deny has expired.<sup>43</sup> Replies must be filed within five business days after

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*Qualifying Tribal Lands: Tribal Lands Bidding Credits to be Available Beginning in Auction No. 36 (800 MHz Specialized Mobile Radio (SMR) Lower 80 Channels) and in Future Auctions*, Public Notice, 15 FCC Rcd 18351 (WTB 2000). Relevant documents can be viewed on the Commission's website by going to [www.fcc.gov/auctions](http://www.fcc.gov/auctions) and clicking on the "Tribal Lands Credits" link.

<sup>38</sup> 47 CFR §§ 1.913, 1.919, 1.2107(f).

<sup>39</sup> The FCC Form 601 ownership reporting requirement can be fulfilled by referencing the file number, date, and name of filer of the appropriate FCC Form 602. See discussion in the Instructions for Completing FCC Form 601 and FCC Form 602.

<sup>40</sup> See paragraph 2, above.

<sup>41</sup> See 47 CFR § 1.65.

<sup>42</sup> *Id.* § 1.2108(b).

<sup>43</sup> *Id.* § 1.2108(c).

the time for filing oppositions to a petition to deny has expired.<sup>44</sup> The Commission reminds all parties and their counsel that the Commission intends to use its authority fully to deter the filing of frivolous pleadings.<sup>45</sup>

40. After the long-form review process is completed, if Commission staff determines that additional payment from an applicant is due, the Bureau will provide further instructions in a future public notice or by demand letter.<sup>46</sup> If Commission staff determines that an applicant is otherwise qualified and that there are no substantial and material issues of fact, the Bureau will issue a public notice announcing grant of the license(s) to the applicant.<sup>47</sup>

### III. OTHER IMPORTANT INFORMATION

#### A. Continuing Prohibition on Certain Communications

41. 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 101 or Auction 102.<sup>48</sup> 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 to 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[.]"<sup>49</sup> 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 percent or more of the entity, and all officers and directors of that entity.<sup>50</sup> For Auctions 101 and 102, a party that submitted an application for either auction is an "applicant" for both auctions under the rule, and that status does not change based on later developments.<sup>51</sup>

42. This prohibition took effect as of the short-form application filing deadline, which for Auctions 101 and 102 was Tuesday, September 18, 2018, at 6:00 p.m. ET, and ends at the post-auction down payment deadline for Auction 102, which will be announced in a future public notice.<sup>52</sup> **This prohibition applies to all applicants regardless of whether such applicants become qualified**

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<sup>44</sup> *Id.*

<sup>45</sup> *See Commission Taking Tough Measures Against Frivolous Pleadings*, Public Notice, 11 FCC Rcd 3030 (1996).

<sup>46</sup> Commission staff may determine, for example, that a winning bidder is not entitled to the level of bidding credit that it has claimed and may require an additional payment to cover the amount of any percentage discount for which it was not eligible.

<sup>47</sup> *See* 47 CFR §§ 1.2108(d), 1.2109(a).

<sup>48</sup> *Id.* § 1.2105(c); *see also Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7598, para. 57.

<sup>49</sup> 47 CFR § 1.2105(c)(1). The Commission identified AT&T, Sprint, T-Mobile, and Verizon Wireless as "nationwide providers" for the purpose of implementing the Commission's competitive bidding rules in Auctions 101 and 102. *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7593, para. 44.

<sup>50</sup> 47 CFR § 1.2105(c)(5)(i); *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7599, para. 59.

<sup>51</sup> *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7599, para. 59.

<sup>52</sup> *Id.* at 7599, paras. 60-61; *see also* 47 CFR § 1.2105(c)(1).

**bidders, or actually bid in Auction 101 and/or Auction 102.**<sup>53</sup> For further information on the prohibition, applicants should refer to the *Auctions 101 and 102 Procedures Public Notice* and the *Auction 101 Qualified Bidders Public Notice*.<sup>54</sup>

### **B. Limited Information Procedures**

43. As discussed above, under the limited information procedures in effect for Auction 101 (sometimes also referred to as anonymous bidding), the Commission is withholding from public release, until after the close of bidding in Auction 102, any information that may indicate specific applicants' interests in the auction—including, among other things, license selections, upfront payments and eligibility information, and the identities of bidders placing bids or taking other bidding-related actions.<sup>55</sup> Accordingly, communication with other applicants or public disclosure of such non-public information may violate the Commission's limited information procedures and Section 1.2105(c)'s prohibition on certain communications. Applicants are encouraged to review the guidance previously provided in the *Auctions 101 and 102 Procedures Public Notice* and in the authorities cited therein.<sup>56</sup>

44. This prohibition includes communication of any such non-public information by an applicant to the public, financial analysts, or the press, as well as any such communication by an applicant to another applicant in Auction 101 or Auction 102.<sup>57</sup> Examples of communications raising concern, given the limited information procedures in effect for Auctions 101 and 102, would include an applicant's statement to the press about its upfront payment or bidding eligibility or that it did or did not bid in the auction or is or is not a winning bidder. **To the extent an applicant believes that such a disclosure is required by law or regulation, including regulations issued by the SEC, we strongly urge that the applicant consult with the Commission staff in the Auctions Division before making such disclosure.**

### **C. Access to the Bidding System**

45. The bidding system for Auction 101 will remain accessible to qualified bidders until 12:00 p.m. ET on Wednesday, February 6, 2019. Bidders should download any files they wish to save from the bidding system before that time.

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<sup>53</sup> 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 to bid, 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 102. *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7599, para. 59 & n.137.

<sup>54</sup> *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7598-606, paras. 57-84; *Auction of 28 GHz Upper Microwave Flexible Use Service Licenses for Next-Generation Wireless Services; 40 Applicants Qualified to Bid in Auction 101*, Public Notice, DA 18-1115 at 10-11, paras. 46-50 (WTB Oct. 31, 2018) (*Auction 101 Qualified Bidders Public Notice*).

<sup>55</sup> *Auctions 101 and 102 Procedures Public Notice*, 33 FCC Rcd at 7596-98, paras. 50-56.

<sup>56</sup> *Id.*

<sup>57</sup> The Commission has long emphasized 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.").

**D. Return of SecurID® Tokens**

46. The SecurID® tokens distributed to qualified bidders are tailored to Auction 101 and will not function in future auctions. The Commission will send each bidder, along with the copy of this Public Notice, a pre-addressed, stamped envelope to return its SecurID® tokens. Each bidder should return its SecurID® token(s) to the Commission for recycling by **February 14, 2019**.

**E. Contact Information**

47. For further information, contact:

**Auction Payment Information**

Wire Transfers  
Refunds

**FCC Auctions Accounting Branch**

Gail Glasser at (202) 418-0578, or (202) 418-2843  
(fax) or e-mail to [RROGWireFaxes@FCC.Gov](mailto:RROGWireFaxes@FCC.Gov)

**FCC Auctions Hotline at (717) 338-2868****Licensing Information**

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

**Broadband Division**

Nancy Zaczek (Attorney) or  
Tim Hilfiger (Engineer) at (202) 418-2487

Filing Forms 601 and 602

**ULS Support Hotline<sup>58</sup>**

(877) 480-3201, option two  
(717) 338-2824 (TTY)

**Auction 101 Information**

General Auction Information, Process, and  
Procedures

**Auctions Division**

FCC Auctions Hotline at (717) 338-2868

Auction Rules, Policies, and Regulations

Erik Beith (Attorney) at (202) 418-0660

**Accessible Formats**

Braille, large print, electronic files, or  
audio format for people with disabilities

**Consumer and Governmental Affairs Bureau**

(202) 418-0530 or (202) 418-0432 (TTY)  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

**FCC Internet Sites**

[www.fcc.gov/auction/101](http://www.fcc.gov/auction/101)  
[www.fcc.gov](http://www.fcc.gov)  
<http://wireless.fcc.gov/uls>  
<https://auctiondata.fcc.gov/public/projects/auction101>

**News Media**

For Press Questions

**Office of Media Relations**

Mark Wigfield at (202) 418-0253

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<sup>58</sup> In the event of a partial government shutdown, contact (717) 338-2769, or (717) 338-2824 (TTY) for further information on filing FCC Forms 601 and 602.