



Federal Communications Commission  
Washington, D.C. 20554

September 22, 2020

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**SMALL ENTITY COMPLIANCE GUIDE**

**Auction of Flexible-Use Service Licenses in the 3.7–3.98 GHz Band  
(Auction 107 Procedures)**

FCC 20-110  
AU Docket No. 20-25

Released: August 7, 2020

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking docket. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)  
TTY: 1-888-TELL-FCC (1-888-835-5322)  
Videophone: 1-844-4-FCC-ASL (1-844-432-2275)  
Fax: 1-866-418-0232

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## I. OBJECTIVES OF THE PROCEEDING

This Small Entity Compliance Guide (SECG) is designed to help individuals and small businesses understand the filing requirements and other procedures for the Commission’s auction of 3.7 GHz Service licenses in the 3.7–3.98 GHz band, which were established in the Commission’s *Auction 107 Procedures Public Notice*.<sup>1</sup> This guide is not a substitute for reading and reviewing orders, rules, and public notices applicable to the auction, nor is it a substitute for legal advice on how the competitive bidding rules apply to your circumstances.

The Commission established this auction to further the deployment of fifth-generation (5G) wireless, the Internet of Things (IoT), and other advanced spectrum-based services. The *Auction 107 Procedures Public Notice* provides details regarding the procedures, terms, and conditions, as well as dates and deadlines,<sup>2</sup> governing participation in Auction 107, and an overview of the post-auction application and payment processes. Additional materials such as the FCC Form 175 Application Filing Instructions, an Auction 107 Application Tutorial and updated Auction 107 Clock and Assignment Phase Technical Guides to assist small entities in complying with the rules and procedures for Auction 107 can be found in electronic form in the “Education” section of the Auction 107 website at [www.fcc.gov/auction/107/education](http://www.fcc.gov/auction/107/education).

## II. COMPLIANCE REQUIREMENTS

### A. Auction Specifics

Bidding in this auction for 5,684 flexible-use overlay licenses is scheduled to begin on December 8, 2020.

- A list of generic license blocks eligible for competitive bidding is available as “Attachment A” to the *Auction 107 Procedures Public Notice* at [www.fcc.gov/auction/107](http://www.fcc.gov/auction/107).

To qualify to bid in Auction 107, applicants must comply with the following requirements:

- Submission of a short-form application (FCC Form 175) by the filing deadline of 6:00 p.m. Eastern Time (ET) on September 22, 2020, that is found to be substantially complete, and
- Submission of a sufficient upfront payment for at least one of the generic license blocks in a partial economic area (PEA) selected on the applicant’s FCC Form 175 by 6:00 p.m. ET on November 2, 2020.
  - The timely submitted upfront payment must be accompanied by a complete and accurate FCC Remittance Advice Form (FCC Form 159), following the procedures and instructions set forth in the *Auction 107 Procedures Public Notice*.<sup>3</sup>
- Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 107. A former defaulter or delinquent may

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<sup>1</sup> *Auction of Flexible-Use Service Licenses in the 3.7–3.98 GHz Band for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 107; Bidding in Auction 107 Scheduled to Begin December 8, 2020*, AU Docket No. 20-25, Public Notice, 35 FCC Rcd 8404 (2020) (*Auction 107 Procedures Public Notice*).

<sup>2</sup> This SECG references subsequent public notices establishing relevant dates for Auction 107, where applicable.

<sup>3</sup> See *Auction 107 Procedures Public Notice*, 35 FCC Rcd at 8443-48, paras. 123-38.

participate so long as it is otherwise qualified and makes an upfront payment that is 50% more than would otherwise be necessary.

- An applicant whose application contains deficiencies will be provided a limited opportunity to bring its application into compliance with the Commission's auction application rules during a resubmission window.<sup>4</sup>
- All qualified bidders will be automatically registered for the auction and mailed the necessary registration materials.
- Parties that timely submit short-form applications are applicants and are subject to certain of the Commission's Part 1 auction rules regarding application requirements and certifications (e.g., joint bidding agreements relating to the licenses subject to auction), and the rule prohibiting certain communications.
  - For example, the prohibition on certain communications for applicants in Auction 107 begins at the short-form application filing deadline on September 22, 2020 and will end at the down payment deadline for Auction 107, to be announced in a future public notice.

## **B. Application Procedures**

The Commission decided in the *3.7 GHz Report and Order* to conduct auctions of 3.7 GHz Service licenses in conformity with the general competitive bidding rules in Part 1, Subpart Q, of the Commission's Rules, 47 CFR §§ 1.2101-1.2114.<sup>5</sup>

- These procedures are substantially consistent with the auction procedures the Commission has applied to other auctionable services for several years.
- Applicants are required to file short-form and long-form applications to ensure that they are qualified to participate in auctions and hold licenses. Certain information required on the short-form application (FCC Form 175) is also necessary to ensure that only applicants that qualify as small businesses or rural service providers receive the bidding credits offered to such entities.

### Provisions for Designated Entities

In Auction 107, bidding credits are available to applicants demonstrating eligibility for a small business or a rural service provider bidding credit and subsequently winning license(s). Bidding credits are not cumulative—for each auction, an applicant is permitted to claim either a small business bidding credit or a rural service provider bidding credit, but not both.

For Auction 107:

- A bidder with attributed average annual gross revenues that do not exceed \$55 million for the preceding five years is eligible to receive a 15% discount on its winning bid.
- A bidder with attributed average annual gross revenues that do not exceed \$20 million for the preceding five years is eligible to receive a 25% discount on its winning bid.
- A bidder satisfying the eligibility requirements for a rural service provider bidding credit is eligible to receive a 15% discount on its winning bid.

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<sup>4</sup> See *id.* at 8411, 8437, paras. 21, 97-98.

<sup>5</sup> *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2372-73, paras. 59-61 (2020) (*3.7 GHz Report and Order*).

The *Auction 107 Procedures Public Notice* established caps on the total amount of bidding credits that may be awarded to an eligible small business and rural service provider in Auction 107.<sup>6</sup>

- There is a \$25 million cap on the total amount of bidding credits that may be awarded to an eligible small business.
- There is a \$10 million cap on the total amount of bidding credits that may be awarded to an eligible rural service provider.
- No winning designated entity bidder may obtain more than \$10 million in bidding credits in total for licenses won in markets with a population of 500,000 or less.

### **C. Bidding Procedures**

The Office of Economics and Analytics, in conjunction with the Wireless Telecommunications Bureau, will conduct Auction 107 using an ascending clock auction design with two phases.<sup>7</sup> The first phase of the auction—the clock phase—will consist of successive clock bidding rounds in which bidders indicate their demands for a number of generic license blocks in specific categories and PEAs. In the second phase—the assignment phase—winning clock phase bidders will have the opportunity to bid for their preferred combinations of frequency-specific license assignments, consistent with their clock phase winnings, in a series of single sealed-bid rounds conducted by PEA or, in some cases, PEA group.

Additional procedures adopted for Auction 107 include:

- use of anonymous bidding/limited information procedures which will not make public: (1) the license areas that an applicant selects for bidding in its auction application (FCC Form 175); (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 107; (3) an applicant's bidding eligibility; and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid, until after bidding has closed;
- adjustment of the bidding schedule as necessary in order to manage the pace of Auction 107;
- provision of discretionary authority to the Office of Economics and Analytics, in conjunction with the Wireless Telecommunications Bureau, to delay, suspend, or cancel bidding in Auction 107 for any reason that affects the ability of the competitive bidding process to be conducted fairly and efficiently;
- establishment of up to two clock phase categories in each available PEA that will be determined based on the specific clearing deadline to which incumbent earth stations are subject, i.e., Phase I or Phase II;<sup>8</sup>
- use of an activity rule, which requires a bidder to bid actively during the auction on a high percentage of its bidding eligibility, including a modification that would allow a bidder to submit bids, but not to be assigned bids, that exceed its bidding eligibility;
- use of an activity rule that does not include a waiver of the rule to preserve a bidder's eligibility;
- a requirement that bidders be active on between 90% and 100% of a bidder's bidding eligibility in all clock rounds;

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<sup>6</sup> *Auction 107 Procedures Public Notice*, 35 FCC Rcd at 8428-29, paras. 76-77.

<sup>7</sup> *See id.* at 8451-68, paras. 152-226.

<sup>8</sup> *Id.* at 8462, para. 203; *see generally* *3.7 GHz Report and Order*, 35 FCC Rcd at 2391-467, paras. 110-331 (outlining the process for transitioning incumbent operations out of the 3.7–3.98 GHz band).

- a specific minimum opening bid amount for generic blocks in each category in a PEA (product) available in Auction 107;
- a specific upfront payment amount for generic blocks in each product available in Auction 107;
- establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment through assignment of a specific number of bidding units for each generic block;
- establishment of acceptable bid amounts, including clock price increments and intra-round bids, along with a methodology for calculating such amounts;
- a methodology for processing bids and requests to reduce and increase demand subject to the no excess supply rule for bids to reduce demand and the eligibility rule for bids to increase demand;
- use of bid processing procedures that the auction bidding system will use, after each bidding round, to process bids to determine the processed demand of each bidder and a posted price for each product that would serve as the start-of-round price for the next round;
- use of assignment phase procedures for PEAs with blocks in two clock phase categories that will allow for interim and final frequency-specific assignments of contiguous blocks within each PEA; and
- establishment of additional default payments of 15% for bids pursuant to section 1.2104(g)(2) of the rules in the event that a winning bidder defaults or is disqualified after the auction.

Bidding in Auction 107 is scheduled to begin on December 8, 2020. Bidding on all generic spectrum blocks in both categories in all PEAs will be conducted on each business day until bidding stops on all blocks in all PEAs.<sup>9</sup>

#### **D. Post-Auction Procedures**

Shortly after bidding ends in Auction 107, the Commission will issue a public notice declaring that the auction closed and establishing the deadlines for submitting down payments, final payments, and the long-form applications (FCC Form 601) for the auction. Further instructions on these and other filing requirements will be provided to winning bidders in the auction closing public notice for Auction 107.

##### *Compliance Requirements for Winning Bidders*

Additional compliance requirements apply to winning bidders. As with other winning bidders, any small entity that is a winning bidder will be required to comply with the following:

- Within 10 business days of release of the auction closing public notice for Auction 107, submit as a down payment sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission to 20% of the net amount of its winning bids;
- Within 10 business days after the down payment deadline, submit the balance of the net amount for each of its winning bids; and
- Within 10 days after the release of the auction closing public notice, electronically submit a properly completed long-form application (FCC Form 601) and required exhibits for each

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<sup>9</sup> *Auction 107 Procedures Public Notice*, 35 FCC Rcd at 8453, para. 164.

license won through Auction 107.

- A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility in its FCC Form 601 post-auction application for the bidding credit sought.<sup>10</sup>

### III. RECORDKEEPING AND REPORTING REQUIREMENTS

Pursuant to Section 1.65 of the Commission's rules, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in Auction 107. An applicant for Auction 107 must furnish additional or corrected information to the Commission within five business days after a significant occurrence or amend its FCC Form 175 no more than five business days after the applicant becomes aware of the need for the amendment. The *Auction 107 Procedures Public Notice* provides instructions for each Auction 107 applicant to maintain the accuracy of its respective short-form application electronically using the FCC Auction Application System and/or by direct communication with the Auctions Division.<sup>11</sup>

### IV. IMPLEMENTATION DATE

The procedures set forth in the *Auction 107 Procedures Public Notice* became effective upon publication of a summary of the text in the Federal Register at 85 FR 53209 on August 28, 2020.

Implementation dates and deadlines associated with the execution of Auction 107 can be found in the *Auction 107 Procedures Public Notice*.<sup>12</sup> Further information will be provided in the closing public notice for this auction.

### V. INTERNET LINKS

A copy of the Federal Register Summary of the *Auction 107 Procedures Public Notice* is available at:

<https://www.federalregister.gov/documents/2020/08/28/2020-18804/auction-of-flexible-use-service-licenses-in-the-37-398-ghz-band-for-next-generation-wireless>.

A copy of the *Auction 107 Procedures Public Notice* is available at:  
[www.fcc.gov/document/fcc-establishes-bidding-procedures-december-c-band-auction-0](http://www.fcc.gov/document/fcc-establishes-bidding-procedures-december-c-band-auction-0).

A copy of the *3.7 GHz Report and Order* is available at:  
[www.fcc.gov/document/fcc-expands-flexible-use-c-band-5g-0](http://www.fcc.gov/document/fcc-expands-flexible-use-c-band-5g-0).

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<sup>10</sup> 47 CFR § 1.2112(b)(2).

<sup>11</sup> See *Auction 107 Procedures Public Notice*, 35 FCC Rcd at 8437-38, paras. 95-102.

<sup>12</sup> See *id.* at 8408-09, paras. 9-12.