



# PUBLIC NOTICE

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

**News Media Information: 202-418-0500**  
**Internet: [www.fcc.gov](http://www.fcc.gov)**  
**TTY: 888-835-5322**

**DA 20-695**  
**July 1, 2020**

## **AUCTION OF PRIORITY ACCESS LICENSES FOR THE 3550-3650 MHz BAND**

### **271 APPLICANTS QUALIFIED TO BID IN AUCTION 105**

#### **AU Docket No. 19-244**

1. By this Public Notice, the Office of Economics and Analytics (OEA) and the Wireless Telecommunications Bureau (WTB) identify 271 applicants that are qualified to bid in Auction 105.<sup>1</sup> Auction 105 will offer 22,631 Priority Access Licenses (PALs) in the 3550-3650 MHz portion of the 3.5 GHz band. Bidding in Auction 105 is scheduled to begin on July 23, 2020.<sup>2</sup> This Public Notice addresses the continuing obligations for all Auction 105 applicants, including those that are not qualified to bid. It also sets forth bidding procedures and other important information regarding Auction 105.

#### **I. QUALIFIED BIDDERS AND NON-QUALIFIED APPLICANTS**

2. The short-form applications to participate in Auction 105 (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.

<b>Qualified</b> .....	<b>271 applicants</b>
<b>Non-Qualified</b> .....	<b>77 applicants</b>

3. **Qualified Bidders.** Attachment A to this Public Notice lists the names of the 271 qualified bidders. Attachment A also indicates whether the applicant has claimed eligibility for a small business or rural service provider bidding credit.<sup>3</sup> For those applicants claiming a small business status,

<sup>1</sup> A copy of this Public Notice will be sent by email to the contact person listed on the FCC Form 175 for each Auction 105 applicant.

<sup>2</sup> See *Auction of Priority Access Licenses for the 3550-3650 MHz Band; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 105; Bidding in Auction 105 Scheduled to Begin June 25, 2020*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 2140 (2020) (*Auction 105 Procedures Public Notice*). Certain dates and deadlines for Auction 105 were postponed due to the COVID-19 pandemic by a Public Notice released on March 25, 2020. *Auction of Priority Access Licenses for the 3550-3650 MHz Band Rescheduled to Begin July 23, 2020; Auction 105 Short-Form Application Deadline Postponed to May 7, 2020*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 2891 (OEA/WTB 2020). OEA and WTB recently announced updated population data for U.S. Territories and four other counties and the availability of an updated Attachment A file listing the bidding units, upfront payment amount, and minimum opening bid amount for each license for Auction 105. See *Updated Population Data for 95 License Areas for the Auction of Priority Access Licenses in the 3550-3650 MHz Band; Availability of File with Recalculated Bidding Units and Upfront Payment and Minimum Opening Bid Amounts for Auction 105*, AU Docket No. 19-244, Public Notice, DA 20-520 (OEA/WTB May 18, 2020) (*Updated Population Data Public Notice*).

<sup>3</sup> Five applicants qualified as bidders in Auction 105, but are not eligible for the bidding credit originally requested in their respective short-form applications. Specifically, Fulair Wireless and NeptunoMedia, Inc. amended their respective applications and requested the 15% “small business” bidding credit instead of the 25% “very small business” bidding credit. Lakeland Internet, LLC, and Broadband VI, LLC, originally requested the “very small (continued....)

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 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.<sup>4</sup>

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 105 Procedures Public Notice* and subsequent public notices.<sup>5</sup> These public notices and other documents related to Auction 105 are available on the Auction 105 website in the Releases section at [www.fcc.gov/auction/105](http://www.fcc.gov/auction/105). 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 105.<sup>6</sup> 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.<sup>7</sup>

## II. REGISTRATION AND ACCESS TO THE AUCTION BIDDING SYSTEM

### A. Registration Materials

6. All qualified bidders have been registered automatically for the auction. Registration materials will be sent by overnight delivery only to the contact person at the contact person's address identified in the qualified bidder's FCC Form 175.<sup>8</sup> The contact person for each qualified bidder must

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business" bidding credit, but amended their respective applications to withdraw their requests for a bidding credit altogether. Cloudwyze claimed "very small business" status, but the Commission determined that its application lacked sufficient information to support eligibility for any bidding credit. Therefore, these applicants are qualified with the bidding credit level as shown in Attachment A, if any. In addition, one qualified applicant changed its name from "Aletheia Corp" to "Webformix Company" to reflect the actual company name, and Union Rural Electric Cooperative requested to fix a typographical error that had appeared in the spelling of "Cooperative" in its initial filing. Each of these changes is reflected in Attachment A and within the Commission's electronic application and bidding system databases.

<sup>4</sup> 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 105 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*, PP Docket No. 93-253, Second Report and Order, 9 FCC Rcd 2348, 2376-77, paras. 163-68 (1994). Commission staff generally consider 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.

<sup>5</sup> See generally *Auction 105 Procedures Public Notice*, 35 FCC Rcd 2140.

<sup>6</sup> Two applicants, Avangrid Networks, Inc. ("Avangrid") and MEI Telecom, Inc., are listed on Attachment B as non-qualified subject to the resolution of their separate requests for waiver of section 1.2106's upfront payment requirements. See 47 CFR § 1.2106; see also *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2145-46, 2182084, paras. 12-14, 131-39. In addition, Avangrid has requested confidential treatment of its request to the extent necessary to comply with Section 1.2105's prohibition on the communication of bidding information. See 47 CFR § 1.2105.

<sup>7</sup> See 47 CFR § 1.2105(c); *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2155, para. 43 & n.92.

<sup>8</sup> 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.

distribute each RSA token to the specific authorized bidder as identified on each envelope contained in the registration materials package. Upon receipt, each qualified bidder should possess the following:

- Three RSA SecurID® tokens (RSA tokens);<sup>9</sup>
- A web address and instructions for accessing and logging in to the FCC auction bidding system;
- An FCC assigned username (user ID) for each authorized bidder; and
- The FCC Auction Bidder Line telephone number.

7. A qualified bidder must have the above-referenced registration materials to participate in the mock auction and to bid in Auction 105.<sup>10</sup> 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, July 14, 2020**, should contact the Auctions Hotline at (717) 338-2868. Receipt of the registration mailing is crucial to participating in the 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 a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's FCC Form 175 may request replacements. To request replacements for these items, 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 Auction 105 electronically over the Internet. 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. Bidders will first be able to access the bidding system at 9:00 a.m. ET on Thursday, July 16, 2020. Access will remain available that day until 5:00 p.m. ET.

12. Each authorized bidder must have his or her own activated RSA token to access the bidding system and place bids in the mock auction and Auction 105. 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 105.

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<sup>9</sup> Each qualified bidder has been issued three RSA tokens. A bidder with three authorized bidders has been issued three RSA tokens. A bidder with two authorized bidder(s) has been issued an RSA token for each of its authorized bidders, plus one extra RSA token. A bidder with one authorized bidder has been issued an RSA token for its authorized bidder, plus two extra RSA tokens. The extra RSA token(s) 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.

<sup>10</sup> 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.

13. There are minimum system requirements for accessing the FCC auction bidding system. Bidders must access the FCC auction bidding system over the Internet. To use the FCC auction bidding system, each applicant must have the following:

- Web browser, either of the following is recommended:
  - A recent version of Google Chrome™ (preferred) or Microsoft Edge (Chromium) (the browser must be configured to accept cookies and JavaScript)
- Operating system:
  - Microsoft® Windows® 10; or Apple® Mac OS X® 10.13 with at least 8 GB of memory
- 1920 x 1080 screen resolution<sup>11</sup>
- While not required, bidders will probably want to use a spreadsheet program such as Microsoft® Excel® 2013 or later for editing their bid files

Smartphones and tablets are not supported.

14. Users should test their computer configurations and browser(s) with the FCC auction bidding system in advance of the auction—for example, during the mock auction. Any user attempting to access the FCC 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 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).

15. Telephonic bidding will not be available for Auction 105 because it will not be feasible given the number of county-based licenses and the file upload required to submit bids. However, the Auction Bidder Line will be available during the mock and actual auction for bidder questions.<sup>12</sup>

16. RSA tokens can be recycled.<sup>13</sup> 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.

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<sup>11</sup> Other screen sizes will work, but a minimum of 1920 x 1080 is required to fit all the information from the FCC auction bidding system on a single screen without horizontal scrolling. If all the information cannot fit on 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.

<sup>12</sup> The Auction Bidder Line telephone number will be supplied in the registration materials sent to each qualified bidder.

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

19. 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.<sup>14</sup> 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

20. 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 Auction 105. The documents and tutorial described below will be available no later than July 9, 2020, in the Education section of the Auction 105 website at [www.fcc.gov/auction/105](http://www.fcc.gov/auction/105), where they will remain accessible for reference.

#### A. Bidding System User Guide

21. The Auction 105 Bidding System User Guide describes the features and functionality of the bidding system that will be used in Auction 105. Bidders are encouraged to read the user guide prior to participating in the mock auction in order to familiarize themselves with the auction bidding system.

#### B. Bidder Data File Formats

22. 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.

#### C. Bidding and Post-Auction Process Tutorial

23. An online tutorial regarding bidding and post-auction procedures for Auction 105 will allow viewers to navigate the presentation outline, review written notes, listen to an audio recording of the notes, and search for topics using a text search function. 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 bidding system.

#### D. Mock Auction

24. All qualified bidders in Auction 105 will have the opportunity to participate in a mock auction. In order to accommodate the large number of qualified bidders and to ensure that each has sufficient opportunity to ask questions or to request bidding assistance, we have scheduled multiple mock auction dates. Each qualified bidder will be assigned to one of three mock auction dates: Friday, July 17; Monday, July 20; or Tuesday, July 21, 2020. We strongly encourage each qualified bidder in Auction 105 to participate in its assigned mock auction as it provides an opportunity for the bidder to practice using the new clock auction bidding system, including practice using the activity upper limit which is new in Auction 105, and to test each bidder's contingency plans. We note that the bidding system for Auction 105 differs from the bidding system used in previous clock auctions. While the functionality is largely the same, the interface is new.

25. Qualified bidders must look up their assigned mock auction date using the "Assigned Mock Auction Dates" link in the Education section of the Auction 105 website at [www.fcc.gov/auction/105](http://www.fcc.gov/auction/105).

26. The setup of the mock auction will differ in some aspects from the setup for bidding in Auction 105. A qualified bidder's assigned counties and eligibility in the mock auction will not represent the actual counties for which it is qualified to bid in Auction 105 or its eligibility based on its actual upfront payment. For the mock auction, each qualified bidder will be assigned a randomly-selected set of counties on which it may bid and eligibility for a specified number of bidding units based on the bidding

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<sup>14</sup> See *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2194, para. 180.

units associated with these assigned counties. A qualified bidder will be assigned the same number of counties as it selected on its FCC Form 175, up to a maximum of 1,000 counties, and will be assigned initial eligibility sufficient to bid for two blocks in each assigned county. The mock auction will otherwise follow the rules governing Auction 105. Each qualified bidder that claimed eligibility for a bidding credit will have that bidding credit in the mock auction. 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. A bidder that fails to submit bids in the first round of the mock auction will not be eligible to participate in later rounds of its assigned mock auction.

27. Each qualified bidder will be able to access its assigned mock auction data in the bidding system starting at 9:00 a.m. ET on its assigned mock auction day (Friday, July 17; Monday, July 20; or Tuesday, July 21, 2020). The mock auction bidding schedule will be the same for each mock auction day and 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
Access to the bidding system closes	5:00 p.m. ET

#### IV. AUCTION INFORMATION

##### A. Bidding Schedule

28. Bidding in Auction 105 will begin Thursday, July 23, 2020, with the following schedule:

Bidding Round	10:00 a.m. – 4:00 p.m. ET
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29. The bidding schedule starting on Friday, July 24, 2020, and continuing each business day until further notice, will be:

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

30. 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 auction bidding system and the Public Reporting System (PRS) during the course of the auction.

##### B. Auction Announcements

31. We will post pertinent auction information as announcements in the FCC 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

32. The minimum opening bid amounts for the licenses available in Auction 105 are set forth in the electronic updated Attachment A file available in the Summary section of the Auction 105 website at [www.fcc.gov/auction/105](http://www.fcc.gov/auction/105) at "Updated (5/18/2020)" link.<sup>15</sup> 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

<sup>15</sup> See *Updated Population Data Public Notice*, DA 20-520.

20%, with the initial increment set at 10%.<sup>16</sup>

33. We caution each qualified bidder to place its bids carefully because each bidder assumes a binding obligation to pay the final clock price for its winning bids should the bidder become a winning bidder, even if the bid was made erroneously.<sup>17</sup>

#### **D. Round Results**

34. Round results typically will 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 105.<sup>18</sup>

35. 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 105 website at [www.fcc.gov/auction/105](http://www.fcc.gov/auction/105). When a bidder is logged in to the FCC 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.

36. Detailed instructions for reviewing and downloading round results are provided in the FCC Bidding System User Guide. The user guide is available in the Education section of the Auction 105 website at [www.fcc.gov/auction/105](http://www.fcc.gov/auction/105) and will remain available and accessible on the Auction 105 website for reference.

#### **E. Bidder Questions During Auction 105 and the Mock Auction**

37. 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 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 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.

#### **F. Bidder Suggestions**

38. A bidder may submit suggestions to the Commission staff concerning Auction 105 or future auctions by using the *messages* feature in the bidding system.<sup>19</sup> 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.

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<sup>16</sup> See *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2198-99, paras. 193-96.

<sup>17</sup> See 47 CFR § 1.2104(g); *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2201, para. 211.

<sup>18</sup> See *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2154, paras. 40-41.

<sup>19</sup> To access the *messages* feature, select the Messages link on the navigation pane of the FCC bidding system. For information on how to use this feature, please see the FCC Bidding System User Guide.

## V. APPLICANTS' CONTINUING OBLIGATIONS

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

39. 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 105.<sup>20</sup> 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.<sup>21</sup> All changes are subject to review by Commission staff.

40. An applicant that needs to make permissible minor changes to its FCC Form 175,<sup>22</sup> 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.<sup>23</sup> The applicant must also submit a letter briefly summarizing the change(s) to its FCC Form 175 by email to [auction105@fcc.gov](mailto:auction105@fcc.gov) to the attention of the Chief, Auctions Division, Office of Economics and Analytics. The letter summarizing the change(s) must include a subject or caption referring to Auction 105 and the name of the applicant, for example, "Re: Changes to Auction 105 Application of XYZ Corp." Any attachments to the email must be formatted as Adobe<sup>®</sup> Acrobat<sup>®</sup> (PDF) or Microsoft<sup>®</sup> Word documents. An applicant must not submit application-specific material through the Commission's Electronic Comment Filing System.

41. 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 105, applicants should refer to previous Auction 105 public notices, including the *Auction 105 Procedures Public Notice*.<sup>24</sup>

### B. Due Diligence

42. 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 105. 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.<sup>25</sup> A Commission

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<sup>20</sup> See 47 CFR §§ 1.65, 1.2105.

<sup>21</sup> See *id.* at §§ 1.65, 1.2105.

<sup>22</sup> 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.* at § 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).

<sup>23</sup> 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 its FCC Form 175 to make certain administrative changes, including updates to: applicant address, responsible party information, contact information. 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.

<sup>24</sup> See *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2173-75, paras. 95-103; 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 [auction105@fcc.gov](mailto:auction105@fcc.gov).



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.

43. 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 105 license, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. 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.<sup>26</sup>

44. We also encourage each applicant in Auction 105 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 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 105 public notices do not constitute an exhaustive list of steps that should be undertaken prior to participating in Auction 105. 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.

45. 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

46. Additionally, we remind applicants of the four-PAL aggregation limit imposed by section 96.31 of the Commission's rules.<sup>27</sup> Priority Access Licensees may hold up to four PALs in any county license area at any given time. For purposes of applying this spectrum aggregation limit, the criteria in section 20.22(b) will apply in order to attribute partial ownership and other interests.<sup>28</sup> Controlling interests, non-controlling interest of more than 10%, and certain interests in spectrum are deemed to create an affiliation for purposes of section 20.22(b).<sup>29</sup>

### C. Prohibition of Certain Communications

47. 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 105.<sup>30</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 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

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<sup>25</sup> 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)).

<sup>26</sup> See, e.g., 47 CFR Part 1, Subpart I.

<sup>27</sup> 47 CFR § 96.31(a).

<sup>28</sup> *Id.* § 96.31(b); see also *id.* § 20.22(b).

<sup>29</sup> *Id.* § 20.22(b).

<sup>30</sup> 47 CFR § 1.2105(c)(1); see also *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2154-55, paras. 42-43.

discussing or negotiating settlement agreements, until after the down payment deadline[.]”<sup>31</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% or more of the entity, and all officers and directors of that entity.<sup>32</sup> AT&T, T-Mobile, and Verizon Wireless are the “nationwide providers” for purposes of this rule in Auction 105.<sup>33</sup>

48. This prohibition took effect based on FCC Form 175 filings as of the short-form application filing deadline, which for Auction 105 was Thursday, May 7, 2020 at 6:00 p.m. ET, and ends at the post-auction down payment deadline for Auction 105, which will be announced in a future public notice.<sup>34</sup> **This prohibition applies to all applicants regardless of whether such applicants have become qualified bidders or actually bid in Auction 105.**<sup>35</sup> For further information on the prohibition, applicants should refer to Section II.G. of the *Auction 105 Procedures Public Notice*.<sup>36</sup>

49. *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.<sup>37</sup> 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.<sup>38</sup>

50. *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.<sup>39</sup> For Auction 105, any such report must be filed according to the instructions set forth in the *Auction 105 Procedures Public Notice*.<sup>40</sup>

51. *Possible Sanctions.* Any applicant found to have violated section 1.2105(c) of the Commission’s rules may be subject to sanctions.<sup>41</sup> In addition, we remind each applicant that it is subject

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<sup>31</sup> 47 CFR § 1.2105(c).

<sup>32</sup> *Id.* § 1.2105(c)(5)(i); *see also Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2155, para. 43.

<sup>33</sup> *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2155, para. 44.

<sup>34</sup> *Id.* at 2155, para. 45; *see also* 47 CFR § 1.2105(c)(1).

<sup>35</sup> 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 105. *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2155, para. 43 n.92.

<sup>36</sup> *See Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2154-61, paras. 42-67.

<sup>37</sup> 47 CFR § 1.2105(b); *see also Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures*, WT Docket No. 97-82, Seventh Report and Order, 16 FCC Rcd 17546, 17553-55, paras. 13-17 (2001).

<sup>38</sup> *See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150 *et al.*, Second Report and Order, 22 FCC Rcd 15289, 15395, paras. 285-86 (2007).

<sup>39</sup> 47 CFR § 1.2105(c)(6); *Procedural Amendments to Commission Part 1 Competitive Bidding Rules*, WT Docket No. 10-18, Order, 25 FCC Rcd 521, 522, para. 4 (2010).

<sup>40</sup> *See Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2160, paras. 61-63.

<sup>41</sup> *See* 47 CFR §§ 1.2105(c), 1.2109(d).

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.<sup>42</sup>

#### **D. Limited Information Procedures**

52. We remind applicants that, under the limited information procedures in effect for Auction 105 (sometimes also referred to as anonymous bidding), the Commission is withholding from public release, until after the close of bidding in Auction 105, any information that may indicate specific applicants' interests in the auction—including, among other things, license area selections, upfront payments and eligibility information, and the identities of bidders placing bids or taking other bidding-related actions.<sup>43</sup> 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.

53. Therefore, applicants must take care not to communicate non-public information to the public, financial analysts, or the press.<sup>44</sup> Examples of communications raising concern, given the limited information procedures in effect for Auction 105, 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**

54. A party wishing to submit a request, a complaint, or other information concerning Auction 105 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by email to [auktion105@fcc.gov](mailto:auktion105@fcc.gov) to the attention of the Chief, Auctions Division, Office of Economics and Analytics. 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**

55. 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.<sup>45</sup>

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<sup>42</sup> See *id.* § 1.2109(d).

<sup>43</sup> *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2153-54, paras. 36-41.

<sup>44</sup> 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.").

<sup>45</sup> 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

56. 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 FCC Form 175. Corrections to contact information in a FCC Form 175 should be made promptly in preparation for post-auction procedures.

57. 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.

58. Additional information regarding these post-auction procedures is contained in the *Auction 105 Procedures Public Notice* and will be provided in the public notice announcing the winning bidders.<sup>46</sup>

## VII. CONTACT INFORMATION

59. Additional information for applicants is available at the Auction 105 website ([www.fcc.gov/auction/105](http://www.fcc.gov/auction/105)).

60. For further information concerning Auction 105, please contact:

### General Auction Information

General Auction Questions

### FCC Auctions Hotline

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

### Auction 105 Process and Procedures

Bidding Procedures  
Auction Schedule

### Auctions Division, OEA

Auctions Hotline (717) 338-2868

### Auction 105 Legal Information

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

### Auctions Division, OEA

(202) 418-0660  
Mary Lovejoy  
Scott Mackoul

### Licensing Information

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

### Mobility Division, WTB

(202) 418-1991  
Jessica Quinley

### 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

<sup>46</sup> See *Auction 105 Procedures Public Notice*, 35 FCC Rcd at 2202-2205, paras. 216-31; 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, or  
Theresa Meeks at (202) 418-2945  
(202) 418-2843 (fax) or email to  
[RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov)

**News Media**

Press Questions

**Wireless Telecommunications Bureau**

Cecilia Sulhoff at (202) 418-0587

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

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