



PUBLIC NOTICE

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AUCTION OF FLEXIBLE-USE LICENSES IN THE 2.5 GHz BAND FOR NEXT GENERATION WIRELESS SERVICES

82 APPLICANTS QUALIFIED TO BID IN AUCTION 108

AU Docket No. 20-429

1. By this Public Notice, the Office of Economics and Analytics (OEA) and the Wireless Telecommunications Bureau (WTB) identify 82 applicants that are qualified to bid in Auction 108.¹ Auction 108 will offer new flexible-use geographic overlay licenses in the 2.5 GHz band.² Bidding in Auction 108 is scheduled to begin on July 29, 2022. This Public Notice also provides important information to qualified bidders concerning access to the Auction 108 bidding system, available educational materials, the mock auction, and the start of bidding for Auction 108. Finally, the Public Notice reminds all applicants, including those that are not qualified to bid, of certain requirements adopted for this auction.

I. QUALIFIED BIDDERS AND NON-QUALIFIED APPLICANTS

2. The short-form applications (FCC Forms 175) to participate in Auction 108 have been reviewed for completeness and compliance with the Commission’s rules, and the applicants have been classified into the categories listed below.

Qualified.....	82 applicants
Non-Qualified	11 applicants

3. **Qualified Bidders.** Attachment A to this Public Notice lists the names of the 82 qualified bidders. Attachment A also indicates whether the applicant has claimed eligibility for a small business or rural service provider bidding credit.³ For those applicants claiming a small business bidding credit, 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

¹ A copy of this Public Notice will be sent by overnight delivery to the contact person listed on the FCC Form 175 for each Auction 108 applicant.

² See generally *Auction of Flexible-Use Licenses in the 2.5 GHz Band for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 108; Bidding Scheduled to Begin July 29, 2022*, AU Docket No. 20-429, Public Notice, FCC 22-24 (2022) (*Auction 108 Procedures Public Notice*).

³ One applicant, American Samoa Telecommunications Authority, initially requested a small business bidding credit, and subsequently amended its application to withdraw its request for the bidding credit. Therefore, as indicated in Attachment A, it is qualified to bid without a bidding credit.

Commission's competitive bidding rules, and that the applicant timely submitted a sufficient upfront payment.⁴

4. In order to participate effectively in the auction, each qualified bidder should carefully review the auction rules, procedures, and other information described in the *Auction 108 Procedures Public Notice* and subsequent public notices. These public notices and other documents related to Auction 108 are available on the Auction 108 website in the Releases section at www.fcc.gov/auction/108. 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 108. 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.⁵

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 175.⁶ Upon receipt, each qualified bidder should possess the following:

- Three RSA SecurID® tokens (RSA tokens);⁷
- A web address and instructions for accessing and logging in to the FCC auction bidding system;
- An FCC assigned User ID for each authorized bidder; and
- The FCC Auction Bidder Line telephone number.

The contact person for each qualified bidder must distribute each RSA token to the specific authorized bidder as identified on each envelope contained in the registration materials package.

⁴ See 47 CFR §§ 1.2105, 1.2106, 1.2112. Under the Commission's two-phased auction application process, a winning bidder must submit a long-form application (FCC Form 601) after the close of bidding in an auction to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the requested bidding credit. Thus, a determination that a short-form application (FCC Form 175) to participate in Auction 108 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.

⁵ See 47 CFR § 1.2105(c); *Auction 108 Procedures Public Notice* at 23, para. 59 & n.142.

⁶ This package will require a signature for delivery to confirm receipt by the qualified bidder. The person signing for the package does not need to be the contact person identified in the qualified bidder's FCC Form 175.

⁷ Each qualified bidder has been issued three RSA tokens. Consequently, qualified bidders with fewer than three authorized bidders will receive 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(s) for a specific additional authorized bidder or for an authorized bidder whose RSA token has been lost or damaged.

7. A qualified bidder must have the above-referenced registration materials that are crucial to participating in the mock auction and to bid in Auction 108.⁸ Any qualified bidder listed in Attachment A of this Public Notice that has not received the registration mailing **by 12:00 p.m. Eastern Time (ET) on Wednesday, July 20, 2022**, should contact the Auctions Hotline at (717) 338-2868. 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 108 electronically over the Internet. A qualified bidder may submit bids only through an individual who has been designated on the applicant's FCC Form 175 as an authorized bidder. An individual authorized bidder may access the FCC auction bidding system only if (1) he or she has an activated RSA token and (2) the authorized bidder has supplied a unique email address in its FCC Form 175 associated with an FCC Username Account that is linked to the applicant's FCC Registration Number (FRN) in the Commission Registration System (CORES).

1. System Access

11. Bidders will first be able to access the bidding system at 10:00 a.m. ET on Friday, July 22, 2022. Access will remain available until 5:00 p.m. ET on Monday, July 25, 2022. 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.

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 108. 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 108.

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

- A computer with at least 8 GB of memory running one of the following operating systems:
 - Microsoft® Windows® 10, or
 - Apple® Mac OS X® 10.13 or later
- Web browser — a recent version of either of the following is recommended:
 - Google Chrome™, or

⁸ The contact person is responsible for timely 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.

- Microsoft Edge® (the browser must be configured to accept cookies and JavaScript)
- Access to the Internet
- 1920 x 1080 screen resolution⁹
- While not required, it is recommended that bidders 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 above and 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 108 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 auction and Auction 108 for bidder questions.¹⁰

16. RSA tokens can be recycled.¹¹ We strongly encourage bidders to return the tokens to the Commission. We will provide pre-addressed, stamped envelopes for returning the tokens once bidding is closed.

2. Authorized Bidder Access

17. Each authorized bidder in Auction 108 must have a unique email address associated with an FCC Username Account that is linked to the qualified bidder’s FRN in CORES.¹² A qualified bidder may make a change to its authorized bidders during the auction; however, if it does not provide such an email address for the new authorized bidder in the qualified bidder’s FCC Form 175 that is also linked to the qualified bidder’s FRN in CORES, that bidder will not be able to log in to the FCC auction bidding system and will not be able to submit bids.¹³ The process for changing an authorized bidder requires several steps, so qualified bidders should allow ample time for the process to be completed.

NOTE: Each qualified bidder is responsible for ensuring compliance with this requirement for any changes made to its authorized bidders throughout the auction.

18. To register a Username Account for an authorized bidder and associate or link it to the qualified bidder’s FRN, please visit CORES at apps.fcc.gov/cores. To view step-by-step instructions on registering a new Username Account, please visit apps.fcc.gov/cores/html/Register_New_Account.htm.

⁹ Other screen resolutions will work, but a minimum of 1920 x 1080 is required to fit all the information from the FCC clock auction bidding system on a single screen without horizontal scrolling. If all the information cannot fit on 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.

¹⁰ The Auction Bidder Line telephone number will be supplied in the registration materials sent to each qualified bidder.

¹¹ An RSA token can only be recycled if it is returned in good condition with nothing written or glued on it.

¹² *Auction 108 Procedures Public Notice* at 15-16, para. 35. This requirement is part of the Commission’s decommissioning of legacy CORES and transiting of its various online systems to the current version of CORES. *See Office of Managing Director Will Decommission Legacy Commission Registration System on July 15, 2022*, MD Docket No. 10-234, Public Notice, DA 22-508 (MD May 27, 2022).

¹³ *See* FCC Form 175 Instructions for Auction 108.

Once the authorized bidder's FCC Username Account has been verified, the authorized bidder can then associate the FCC Username Account to the qualified bidder's existing FRN by logging into the FCC Username Account at apps.fcc.gov/cores. To view step-by-step instructions on associating an FCC Username Account to the qualified bidder's existing FRN, please visit apps.fcc.gov/cores/html/Associate_Username_to_FRN.htm.

D. Bidding Contingency Plan

19. 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.

20. 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.

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

III. EDUCATIONAL MATERIALS AND IMPORTANT UPCOMING EVENTS AND DATES

22. 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 108. The documents and tutorial described below will be available in the Education section of the Auction 108 website at www.fcc.gov/auction/108, where they will remain accessible for reference.

A. FCC Auction Bidding System User Guide

23. The Auction 108 Bidding System User Guide describes the features and functionality of the bidding system that will be used in Auction 108. The user guide will be accessible in the Education section of the Auction 108 website at www.fcc.gov/auction/108. We will email a link to access and download the user guide to each authorized bidder and to the contact person listed on each qualified bidder's FCC Form 175. Additionally, the user guide will remain accessible on the Auction 108 website for reference. 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

24. 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 Tutorial

25. An online tutorial regarding bidding for Auction 108 will allow viewers to navigate the presentation outline, review written notes, and listen to an audio recording of the notes. Additional features of this web-based tool include links to auction-specific Commission releases, email links for

¹⁴ See *Auction 108 Procedures Public Notice* at 64-65, para. 196-97.

contacting Commission auctions and licensing staff, and screen shots of the FCC auction bidding system. The online tutorial will be accessible in the Education section of the Auction 108 website at www.fcc.gov/auction/108. The tutorial will remain accessible on the Auction 108 website for reference.

D. Mock Auction

26. All qualified bidders in Auction 108 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 two mock auction dates: Tuesday, July 26, 2022, or Wednesday July 27, 2022. We strongly encourage each qualified bidder in Auction 108 to participate in its assigned mock auction as it provides an opportunity for the bidder to practice using the auction bidding system, including practice using the new proxy bidding functionality, and to test its contingency plans.¹⁵

27. Qualified bidders must look up their assigned mock auction date using the “Assigned Mock Auction Dates” link in the Education section of the Auction 108 website at www.fcc.gov/auction/108.

28. For the mock auction, each qualified bidder will be assigned a randomly selected set of counties and sufficient eligibility to bid on all of the licenses in its assigned counties. These will NOT represent the actual counties for which the bidder is qualified to bid, or its eligibility based on its actual upfront payment. A qualified bidder will be assigned the same number of counties as it selected on its FCC Form 175, up to a maximum of 500 counties. The mock auction will otherwise follow the rules governing Auction 108. Each qualified bidder that claimed eligibility for a bidding credit will have that bidding credit in the mock auction. If a bidder fails to submit bids in the first round, it will lose all of its bidding eligibility and will not be able to participate in subsequent rounds of the mock auction. In subsequent rounds, if a bidder fails to submit all of 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.

29. Each qualified bidder will be able to access its assigned mock auction data through the mock auction bidding system starting at 9:00 a.m. ET on its assigned mock auction day, which will be either Tuesday, July 26, or Wednesday July 27, 2022. The mock auction bidding schedule will be the same each mock auction day and will be as follows:

Mock Bidding Round 1	10:00 a.m. – 11:30 a.m. ET
Mock Bidding Round 2	12:30 p.m. – 1:30 p.m. ET
Mock Bidding Round 3	2:30 p.m. – 3:30 p.m. ET
Mock Bidding Round 4	4:00 p.m. – 4:30 p.m. ET
Access to the bidding system closes	5:30 p.m. ET

IV. AUCTION INFORMATION

A. Bidding Schedule

30. Bidding in Auction 108 will begin Friday, July 29, 2022, with the following schedule:

Bidding Round	10:00 a.m. – 4:00 p.m. ET
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¹⁵ For additional information about proxy bidding, see *Auction 108 Procedures Public Notice* at 69-70, paras. 213-17; see also the Auction 108 Bidding System User Guide, Sections 7.3.1 and 7.4.1.

31. The bidding schedule starting on Monday, August 1, 2022, 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

32. 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

33. 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

34. The minimum opening bid amounts for the licenses available in Auction 108 are set forth in the electronic updated Attachment A file available in the Summary section of the Auction 108 website at www.fcc.gov/auction/108 at the “Updated (4/15/2022)” link. 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 30%, with the initial increment set at 10%.¹⁶ The increment percentage may be adjusted as rounds continue.¹⁷ Any such change would be announced in advance in the bidding system.

35. 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.¹⁸

D. Round Results

36. 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 108.¹⁹

37. Two types of reports will be available to qualified bidders during the auction: (1) publicly available information and (2) bidder-specific information available only to that bidder when logged in to the bidding system. The public information will be available on the PRS at <https://auctiondata.fcc.gov>, for which there will be a link in the Results section of the Auction 108 website at www.fcc.gov/auction/108. When a bidder is logged in to the FCC auction bidding system, it will have access to a record of the bids it placed on the Bid Summary screen and the results of its bids on the My Results screen. These features can be accessed using the links in the bidding system’s navigation bar. This information will also be available for the bidder to download.

38. Detailed instructions for reviewing and downloading round results are provided in the Auction 108 Bidding System User Guide. The user guide is available in the Education section of the Auction 108 website at www.fcc.gov/auction/108 and will remain accessible on the Auction 108 website for reference.

¹⁶ See *Auction 108 Procedures Public Notice* at 68-69, para. 209.

¹⁷ *Id.*

¹⁸ See 47 CFR § 1.2104(g); *Auction 108 Procedures Public Notice* at 74, para. 236.

¹⁹ See *Auction 108 Procedures Public Notice* at 22-23, paras. 53-58.

E. Bidder Questions During Auction 108 and the Mock Auction

39. Commission auction staff and technical support staff will be available during the mock auction and the 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, and the person must have his or her login information and RSA token available.

40. Alternatively, a bidder may submit questions or suggestions concerning Auction 108 using the *Messages* feature in the bidding system.²⁰ However, this is not an appropriate mechanism for asking time-sensitive questions that may need an immediate response. **Any time-sensitive questions should be directed to the Auction Bidder Line. Time-sensitive technical issues should be directed to the FCC Auctions Technical Support Hotline.**

41. For more general questions about Auction 108, please refer to the contact information provided in Section VII (Contact Information), below.

V. APPLICANTS' CONTINUING OBLIGATIONS

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

42. 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 108.²¹ Each applicant should amend its application to furnish additional or corrected information within five business days of a significant occurrence, or no more than five business days after the applicant becomes aware of the need for amendment.²² All changes are subject to review by Commission staff.

43. An applicant that needs to make permissible minor changes to its FCC Form 175,²³ or that must make changes in order to maintain the accuracy and completeness of its short-form application, must do so electronically using the FCC auction application system during a time when the FCC auction application system is available to the applicant for purposes of making the type of change(s) required.²⁴ The applicant must also submit a letter briefly summarizing the change(s) to its FCC Form 175 by email to auCTION108@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 108 and the name of the applicant, for example, "Re: Changes to Auction 108 Application of XYZ Corp." Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word

²⁰ To access the *Messages* feature, select the Messages link on the navigation pane of the bidding system. For information on how to use this feature, see the Auction 108 Bidding System User Guide.

²¹ See 47 CFR §§ 1.65, 1.2105(b)(4).

²² See *id.* at §§ 1.65, 1.2105(b)(4).

²³ As described in the Commission's rules, an applicant may make only minor corrections to its short-form application (e.g., changing certain contact information or authorized bidder information). See *id.* at § 1.2105(b)(2). 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 amendment reporting change of control of applicant).

²⁴ An applicant should not use the auction application system outside of the resubmission filing window to make changes to its short-form application for other than administrative changes. An applicant retains electronic access to its FCC Form 175 to make certain administrative changes, including updates to: applicant address, responsible party information, and 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.

documents. An applicant must not submit application-specific material through the Commission's Electronic Comment Filing System.

44. 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 108, applicants should refer to previous Auction 108 public notices, including the *Auction 108 Procedures Public Notice*.²⁵

B. Due Diligence

45. Each qualified bidder 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 108.²⁶ The Commission makes no representations or warranties about the use of this spectrum or these licenses for particular services. Each qualified bidder 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.²⁷ A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success. Accordingly, each qualified bidder is encouraged to review the Commission's previous guidance concerning bidders' due diligence efforts prior to and during the auction.²⁸

46. A qualified bidder should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Commission continues to encourage each qualified bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 108 license, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements.²⁹ Each qualified bidder should 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 familiarize itself with the Commission's rules regarding any applicable federal, state, and local requirements.³⁰

47. Qualified bidders must carefully consider potential encumbrances on existing licenses.³¹ We note in particular that there will be a substantial number of licenses in inventory where the amount of unassigned area or unassigned spectrum is very small. For example, there could be licenses in Channel Block 2 where as little as .333 megahertz of spectrum is unassigned.³² There are also a substantial

²⁵ See *Auction 108 Procedures Public Notice* at 42-44, paras. 114-122; see also 47 CFR §§ 1.65, 1.2105(b)(4). Questions about FCC Form 175 amendments should be directed to the Auctions Division at (202) 418-0660 or by email to auction108@fcc.gov.

²⁶ *Auction 108 Procedures Public Notice* at 44, para. 123.

²⁷ 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)).

²⁸ *Auction 108 Procedures Public Notice* at 44-47, paras. 123-133.

²⁹ *Id.* at 44, para. 124.

³⁰ See *id.* at 44, 46, paras. 124, 132; see also 47 CFR Part 1, Subpart I; *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Second Report and Order, 33 FCC Rcd 3102 (2018) (amending the Commission's rules concerning the types of deployments that are subject to review pursuant to the National Historic Preservation Act and the National Environmental Policy Act).

³¹ See *Transforming the 2.5 GHz Band*, WT Docket No. 18-120, Report and Order, 34 FCC Rcd 5446, 5460-69, paras. 14-65 (2019) (modified by Erratum, 34 FCC Rcd 10386 (WTB 2019)) (*2.5 GHz Report and Order*). See generally AU Docket No. 20-429.

³² The J guard band channels are each 1/3 megahertz wide.

number of licenses where the area with unassigned spectrum is smaller than one square mile. Each qualified bidder should carefully research the existence of incumbent licenses and the technical and economic implications for commercial use of the 2.5 GHz band.

48. The Commission has also encouraged each participant in Auction 108 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.³³ Each qualified bidder 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 108 public notices do not constitute an exhaustive list of steps that should be undertaken prior to participating in Auction 108. As always, the burden is on the qualified bidder to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests. For example, qualified bidders should pay particular attention to the results of applications filed in the Rural Tribal Priority Window, which will determine the final inventory of licenses available for bidding in Auction 108.³⁴ We emphasize again that licenses granted through applications received during the Rural Tribal Priority Window have incumbent status relative to licenses awarded in Auction 108. In other words, any winning bidder awarded a license in Auction 108 will not be allowed to operate within the license area of a successful Rural Tribal Priority Window applicant, even if that application remains pending today or at the time of issuance of the overlay license.³⁵ In addition, we remind qualified bidders that the tools made available to assess the available licenses in Auction 108, including the mapping tool described in the *Auction Procedures Public Notice*, may not represent official licensing information and all information should be confirmed in the Universal Licensing System (ULS) for any specific license or area.³⁶

49. Qualified bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the licenses available in Auction 108.³⁷ Each qualified bidder is responsible for undertaking research to ensure that any licenses won in the auction will be suitable for its business plans and needs. Each qualified bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

50. 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.³⁸ To the extent the Commission's databases may not include all information deemed necessary or desirable by a qualified bidder, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases.

³³ *Auction 108 Procedures Public Notice* at 45, para. 126.

³⁴ See *2.5 GHz Report and Order*, 34 FCC Rcd at 5463-69, paras. 47-65. Updates regarding applications filed during the Rural Tribal Priority Window are available at www.fcc.gov/rural-tribal-window-updates. In particular, we recommend that potential Auction 108 qualified bidders monitor the status of Rural Tribal Priority Window applications and any waiver requests that may be attached to an application. Rural Tribal Priority Window applications, and any waivers attached to an application, can be found at www.fcc.gov/25-ghz-rural-tribal-application-details. Users should consult the Universal Licensing System (ULS) to confirm the exact status of an application.

³⁵ See 47 CFR § 27.1206(b)(2)(ii) (GSA of county-based 2.5 GHz licenses excludes overlapping, co-channel incumbent GSAs, including Rural Tribal Priority Window licenses).

³⁶ See *Auction 108 Procedures Public Notice* at 5-11, paras. 7-19.

³⁷ *Id.* at 45, para. 127.

³⁸ Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases. *Id.* at 45, para. 128.

C. Prohibition of Certain Communications

51. All applicants are encouraged to review the Commission's rules prohibiting certain communications set forth in section 1.2105(c) which apply to each applicant that filed a short-form application (FCC Form 175) in Auction 108, as well as its previous guidance concerning that prohibition.³⁹ Section 1.2105(c)(1) provides that, subject to specified exceptions, after the deadline for filing a short-form application, "all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider [of communications services] that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline[.]"⁴⁰ 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.⁴¹ AT&T, T-Mobile, and Verizon are the "nationwide providers" for purposes of this rule in Auction 108.⁴²

52. This prohibition took effect based on FCC Form 175 filings as of the short-form application filing deadline, which for Auction 108 was Tuesday, May 10, 2022, at 6:00 p.m. ET, and ends at the post-auction down payment deadline for Auction 108, which will be announced in a future public notice.⁴³ **This prohibition applies to all applicants regardless of whether such applicants have become qualified bidders or actually bid in Auction 108.**⁴⁴ For further information on the prohibition, applicants should refer to Section II.G of the *Auction 108 Procedures Public Notice*.⁴⁵

53. The prohibition of "communicating in any manner" includes public disclosures as well as private communications and indirect or implicit communications of bids and bidding strategies. Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant and must take care not to communicate non-public information to the public, financial analysts, or the press.⁴⁶ Examples of communications raising concern, given the limited information procedures in effect for Auction 108, would include an applicant's statement to the press or other public statement (such as a post on social media) about its upfront payment or bidding eligibility, and an applicant's statement to the press or other public statement that it is or is not interested in bidding in the auction.

54. *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

³⁹ 47 CFR § 1.2105(c); *see also Auction 108 Procedures Public Notice* at 23-28, paras. 59-84.

⁴⁰ 47 CFR § 1.2105(c)(1).

⁴¹ *Id.* § 1.2105(c)(5)(i); *see also Auction 108 Procedures Public Notice* at 23, para. 60.

⁴² *Auction 108 Procedures Public Notice* at 24, para. 61.

⁴³ *Id.* at 24, para. 62; *see also* 47 CFR § 1.2105(c)(1).

⁴⁴ *Auction 108 Procedures Public Notice* at 23, para. 60 & n.142.

⁴⁵ *See id.* at 23-28, paras. 59-84.

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

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 sections 1.65 and 1.2105(b)(4).⁴⁷ 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.⁴⁸

55. *Reporting Prohibited Communication.* Any party reporting any communication pursuant to sections 1.65, 1.2105(b)(4), 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)(4) requires a party to file only a single report with the Chief of the Auctions Division in OEA.⁴⁹ For Auction 108, any such report must be filed according to the instructions set forth in the *Auction 108 Procedures Public Notice*.⁵⁰

56. *Possible Sanctions.* Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.⁵¹ In addition, we remind each applicant that it is subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and it may be prohibited from participating in future auctions, among other sanctions.⁵²

D. Limited Information Procedures

57. We remind applicants that, under the limited information procedures in effect for Auction 108 (sometimes also referred to as anonymous bidding), the Commission is withholding from public release, until after the close of bidding in Auction 108, 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.⁵³ 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.

E. Submission of Auction-Related Filings

58. A party wishing to submit a request, a complaint, or other information concerning Auction 108 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by email to auction108@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

⁴⁷ 47 CFR §§ 1.65, 1.2105(b)(4); *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).

⁴⁸ 47 CFR § 1.2105(b)(4); *see also 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).

⁴⁹ 47 CFR § 1.2105(c)(4); *see also Procedural Amendments to Commission Part 1 Competitive Bidding Rules*, WT Docket No. 10-18, Order, 25 FCC Rcd 521, 522, para. 4 (2010).

⁵⁰ *See Auction 108 Procedures Public Notice* at 28-29, paras. 78-80.

⁵¹ *See* 47 CFR §§ 1.2105(c), 1.2109(d).

⁵² *See id.* § 1.2109(d).

⁵³ *Auction 108 Procedures Public Notice* at 22-23, paras. 53-58.

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

59. 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.⁵⁴

VI. POST-AUCTION PROCEDURES

60. 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 an FCC Form 175 should be made promptly in preparation for post-auction procedures.

61. 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.

62. Additional information regarding these post-auction procedures is contained in the *Auction 108 Procedures Public Notice* and will be provided in the public notice announcing the winning bidders.⁵⁵

VII. CONTACT INFORMATION

63. Additional information for applicants is available at the Auction 108 website (www.fcc.gov/auction/108). If, after reviewing the information available on the Auction 108 website, you have questions, you may contact:

General Auction Information

General Auction Questions

FCC Auctions Hotline

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

Auction 108 Process and Procedures

Bidding Procedures
Auction Schedule

Auctions Division, OEA

Auctions Hotline (717) 338-2868

Auction 108 Legal Information

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

Auctions Division, OEA

(202) 418-0660
Lyndsey Grunewald (Attorney)
Scott Mackoul (Attorney)

⁵⁴ 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.

⁵⁵ See *Auction 108 Procedures Public Notice* at 74-77, paras. 237-252; 47 CFR §§ 1.2107, 1.2109(a).

Licensing Information

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

Broadband Division, WTB

(202) 418-2487
Madelaine Maior (Attorney)
Nadja Sodos-Wallace (Attorney)

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

For FRN username and password questions

(877) 480-3201, option 1
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

Payment Information

Instructions for Wiring Upfront 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

Press Information**Office of Media Relations**

Anne Veigle
(202) 418-0500

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

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