



PUBLIC NOTICE

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ESTIMATE OF SYSTEMS OF COMPETITIVE BIDDING FOR FISCAL YEAR 2024

Section 309(j)(18) of the Communications Act of 1934, as amended, requires the Commission to make publicly available an estimate of what systems of competitive bidding may be initiated during the upcoming 12-month period.¹ With two specified exceptions, the Commission's authority to grant licenses or permits through systems of competitive bidding expired on March 9, 2023.² As discussed below, the Office of Economics and Analytics (OEA) does not estimate that a system of competitive bidding would be initiated pursuant to either exception in Fiscal Year (FY) 2024. Absent Congressional action, the Commission does not have authority to initiate any other systems of competitive bidding for spectrum in FY 2024.

One specified exception to the expiration of the Commission's authority applies to the 3.1–3.45 GHz Band, which was identified under section 90008(b)(2)(A)(ii) of the Infrastructure Investment and Jobs Act for potential licensing through a system of competitive bidding to begin no earlier than November 30, 2024. Congress directed the Department of Defense (DoD) to study the 3.1–3.45 GHz band in order to identify spectrum for reallocation for shared use and auction.³ Based on the DoD's study, the Secretary of Commerce, in coordination with the Secretary of Defense, the Director of the Office of the Science and Technology Policy, and relevant congressional committees will submit a report to the President and the Commission identifying the spectrum in the band that could be made available on a shared basis between Federal and non-Federal commercial users.⁴ After the report is received, and no earlier than November 30, 2024, the Commission, in consultation with the Assistant Secretary of Commerce for Communications and Information, will begin a system of competitive bidding to grant licenses for the spectrum identified in the report.⁵ As such, OEA estimates that a system of competitive bidding for this spectrum would not be initiated within FY 2024. The other specified exception applies to 30 megahertz of spectrum to be identified by the Secretary of Commerce not later than January 1, 2022, for reallocation from Federal to non-Federal use or shared Federal and non-Federal use, or a combination thereof, pursuant to the Spectrum Pipeline Act.⁶ Because this spectrum has not yet been identified, OEA

¹ 47 U.S.C. § 309(j)(18).

² 47 U.S.C. § 309(j)(11) (“The authority of the Commission to grant a license or permit under this subsection shall expire March 9, 2023, except that, with respect to the electromagnetic spectrum identified under section 1004(a) of the Spectrum Pipeline Act of 2015, such authority shall expire on September 30, 2025, and with respect to the electromagnetic spectrum identified under section 90008(b)(2)(A)(ii) of the Infrastructure Investment and Jobs Act, such authority shall expire on the date that is 7 years after November 15, 2021.”); Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 5232, § 901 (2022).

³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 90008(b)(1)(A) (2021) (codified at 47 U.S.C. § 921 note).

⁴ *Id.* § 90008(b)(2)(A).

⁵ *Id.* § 90008(b)(3).

⁶ Spectrum Pipeline Act of 2015, Pub. L. No. 114-74, § 1004(a) (2015) (codified at 47 U.S.C. § 921 note).

estimates that a system of competitive bidding would not be initiated by the statutory deadline of July 1, 2024.⁷

The Commission has several active proceedings in which it is considering whether and how to enable sharing or repurposing of bands, potentially creating opportunities for spectrum auctions beyond FY 2024. For example, in May 2023 the Commission adopted a notice of proposed rulemaking in which it sought comment on services rules for flexible use licenses in the 550 megahertz of the 12.7–13.25 MHz band.⁸ Additionally, the Commission will examine for potential re-auction, subject to any limits currently imposed by the lapse in its statutory spectrum auction authority, its inventory of licenses in services well-suited for 5G that were previously offered at auction, such as 600 MHz and AWS-3.

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⁷ *Id.*

⁸ *Expanding Flexible Use of the 12.2-12.7 GHz Band; Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use*, WT Docket No. 20-443, GN Docket No. 22-352, Order, Report and Order, Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking, FCC 23-36, at 34-68, paras. 58-142 (May 19, 2023).