



PUBLIC NOTICE

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AUCTION OF LOWER 700 MHz BAND LICENSES SCHEDULED FOR JULY 20, 2005

Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

Report No. AUC-05-60-B (Auction No. 60)

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I. GENERAL INFORMATION

A. Introduction

By this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) announces the procedures and minimum opening bid amounts for the upcoming auction of licenses in the Lower 700 MHz band C block (710-716/740-746 MHz) scheduled for July 20, 2005 (Auction No. 60). On January 26, 2005, in accordance with Section 309(j)(4) of the Communications Act of 1934, as amended,¹ the Bureau released a public notice seeking comment on reserve prices or minimum opening bid amounts and the procedures to be used in Auction No. 60.² The Bureau received no comments in response to the *Auction No. 60 Comment Public Notice*.

1. Background of Proceeding

On January 18, 2002, the Commission released the *Lower 700 MHz Report & Order* which adopted allocation and service rules for the Lower 700 MHz Band.³ Specifically, the Commission reallocated the entire 48 megahertz of spectrum in the Lower 700 MHz band to fixed and mobile services and retained the existing broadcast allocation for both new broadcast services and incumbent broadcast services during their transition to digital television (“DTV”).⁴ The Commission established technical criteria designed to protect incumbent television operations in the band during the DTV transition period, allowed low power television (“LPTV”) and TV translator stations to retain secondary status and operate in the band after the transition, and set forth a mechanism by which pending broadcast applications may be amended to provide analog or digital service in the core television spectrum or to provide digital service on TV Channels 52- 58.⁵

In its service rules, the Commission divided the Lower 700 MHz band into three 12-megahertz blocks, with each block consisting of a pair of 6-megahertz segments, and two 6-megahertz blocks of contiguous, unpaired spectrum. The Commission decided to divide the five blocks in the Lower 700 MHz band plan as follows: for the two 6-megahertz blocks of contiguous unpaired spectrum, as well as two of the three 12-megahertz blocks of paired spectrum, the Commission determined to assign licenses in six Economic Area Groupings (“EAGs”); for the remaining 12 megahertz block of paired spectrum, the Commission determined to assign licenses in 734 Metropolitan Statistical Areas (“MSAs”) and Rural Service Areas (“RSAs”).⁶ All operations in the Lower 700 MHz band are generally regulated under the framework of Part 27’s technical, licensing, and operating rules.⁷ To

¹ 47 U.S.C. § 309(j)(4)(F).

² See “Auction of Lower 700 MHz Band Licenses Scheduled for July 20, 2005; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures for Auction No. 60,” *Public Notice*, DA 05-171 (rel. Jan. 26, 2005) (“*Auction No. 60 Comment Public Notice*”). The Commission’s authority to establish a reserve price or minimum opening bid is set forth in 47 C.F.R. § 1.2104(c) and (d).

³ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, 17 FCC Rcd 1022, 1023 ¶ 1 (2002) (“*Lower 700 MHz Report & Order*”).

⁴ *Id.* at ¶¶ 13-14.

⁵ *Id.* at ¶¶ 13-14, 27-33, and 44-46.

⁶ *Id.* at ¶¶ 76-96. For the Lower 700 MHz band, the Commission adopted Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs) as defined by Public Notice Report No. CL-92-40 “Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties,” dated January 24, 1992, DA 92-109, 7 FCC Rcd 742 (1992), with the following modifications: (i) the service areas of cellular markets that border the U.S. coastline of the Gulf of Mexico extend 12 nautical miles from the U.S. Gulf coastline; and (ii) the service area of cellular market 306 that comprises the water area of the Gulf of Mexico extends from 12 nautical miles off the U.S. Gulf coast outward into the Gulf. See 47 C.F.R. § 27.6(c)(2).

⁷ *Lower 700 MHz Report & Order* at ¶¶ 97-123.

permit both wireless services and certain new broadcast operations in the Lower 700 MHz band, however, the Commission has amended the maximum power limits in Part 27 to permit 50 kW effective radiated power (“ERP”) transmissions in the Lower 700 MHz band, subject to certain conditions.⁸ Finally, the Commission established competitive bidding procedures and voluntary band-clearing mechanisms for the Lower 700 MHz band.⁹ On June 14, 2002, the Commission affirmed its decisions in the *Lower 700 MHz Report and Order*.¹⁰

With respect to the MSA and RSA licenses, the Bureau notes that MSAs and RSAs are collectively known as Cellular Market Areas (CMAs). CMAs were created from the Metropolitan Statistical Areas (“MSAs”) defined by the Office of Management and Budget (CMA001-CMA305), the Gulf of Mexico (CMA306), and Rural Service Areas (“RSAs”) established by the FCC (CMA307-CMA734). These RSAs include parts of Puerto Rico not already in an MSA (CMA723-CMA729), U.S. Virgin Islands (CMA730-CMA731), Guam (CMA732), American Samoa (CMA733), and Northern Mariana Islands (CMA734). The CMA designation, rather than MSA/RSA, is used in the FCC Integrated Spectrum Auction System and in the Universal Licensing System.

2. Licenses to be Auctioned

Auction No. 60 will offer five CMA licenses in the Lower 700 MHz band C block (710-716/740-746 MHz). These licenses remained unsold in Auction No. 49, which closed on June 13, 2003. The C block is a 12-megahertz block consisting of a pair of 6-megahertz segments. A complete list of the licenses available in Auction No. 60 and their descriptions is included in Attachment A of this Public Notice.

B. Rules and Disclaimers

1. Relevant Authority

Prospective applicants must familiarize themselves thoroughly with the Commission’s rules, particularly those relating to the Lower 700 MHz band contained in Title 47, Part 27, of the Code of Federal Regulations, and those relating to application and auction procedures, contained in Title 47, Part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, “terms”) contained in this Public Notice; the *Auction No. 60 Comment Public Notice*; and the Commission’s decisions in proceedings regarding competitive bidding procedures.¹¹

⁸ *Id.* at ¶¶ 99-111.

⁹ *Id.* at ¶¶ 164-179.

¹⁰ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Memorandum Opinion and Order*, 17 FCC Rcd 11613 (2002) (“*Lower 700 MHz MO&O*”).

¹¹ See, e.g., Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Second Report and Order*, 9 FCC Rcd 2348 (1994); Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293 (2000) (modified by Erratum, DA 00-2475 (rel. Nov. 3, 2000)) (“*Part 1 Fifth Report and Order*”); Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001) (“*Part 1 Seventh Report and Order*”) (amending the anti-collusion rule, which is codified at 47 C.F.R. §1.2105(c)); Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Eighth Report and Order*, 17 FCC Rcd 2962 (2002) (amending Section 1.2110 of the Commission’s rules); Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order*, 18 FCC Rcd 10180 (2003) (“*Order on Reconsideration of the Part 1 Fifth Report and Order*”); *Second Order on Reconsideration of the Fifth Report and Order*, 20 FCC Rcd 1942 (2005) (further amending Section 1.2110 to exempt the gross revenues of the affiliates of a rural telephone cooperative’s officers and directors from attribution to the applicant and adopting other modifications to the competitive bidding rules).

The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>. Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), 445 12th Street, SW, Room CY-B402, Washington, DC 20554, 800-378-3160 (telephone) or <http://www.bcpweb.com>. When ordering documents from BCPI, please provide the appropriate FCC document number (for example, DA 05-171 for the *Auction No. 60 Comment Public Notice*).

2. Prohibition of Collusion

To ensure the competitiveness of the auction process, Section 1.2105(c) of the Commission's rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii).¹² Thus, applicants for any of the same geographic license areas must affirmatively avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bidding or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction.¹³ *This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.* For purposes of this prohibition, Section 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting an application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity.¹⁴

Applicants for licenses in any of the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the applicants he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.¹⁵ However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.¹⁶

¹² 47 C.F.R. § 1.2105(a)(2)(viii); 47 C.F.R. § 1.2105(c)(1). *See also Part 1 Seventh Report and Order*, 16 FCC Rcd 17546 (2001); *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15297-98 ¶¶ 7-8.

¹³ 47 C.F.R. § 1.2105(c)(1).

¹⁴ 47 C.F.R. § 1.2105(c)(7)(i).

¹⁵ *See Application of Nevada Wireless for a License to Provide 800 MHz Specialized Mobile Radio Service in the Farmington, NM-CO Economic Area (EA-155) Frequency Band A, Memorandum Opinion and Order*, 13 FCC Rcd 11973, 11977 ¶ 11 (1998).

¹⁶ *See id.* at 11978 ¶ 13.

The Commission's anti-collusion rule allows applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering any of the same geographic areas.¹⁷ In addition, applicants that apply to bid for all markets will be precluded from communicating with all other applicants until after the down payment deadline. However, all applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175.¹⁸ If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to Section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations.¹⁹ By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with Section 1.2105(c).

Section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.²⁰ Thus, Section 1.65 requires auction applicants that engage in communications of bids or bidding strategies that result in a bidding agreement, arrangement or understanding not already identified on their short-form applications to promptly disclose any such agreement, arrangement or understanding to the Commission by amending their pending applications. In addition, Section 1.2105(c)(6) requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing 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 1.65.²¹

Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process.²² Any applicant found to have violated the anti-collusion rule may be subject to sanctions, including forfeiture of its upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions.²³ In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws 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 may be prohibited from participating in future auctions.²⁴

A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment F and these documents are available on the Commission's anti-collusion web page.

¹⁷ 47 C.F.R. § 1.2105(c)(2) & (3).

¹⁸ 47 C.F.R. § 1.2105(c).

¹⁹ See Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd 9645 (1995).

²⁰ 47 C.F.R. § 1.65.

²¹ 47 C.F.R. § 1.2105(c)(6); see also *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17.

²² 47 C.F.R. § 1.2107(d).

²³ See 47 C.F.R. § 1.2109(d).

²⁴ *Id.*

3. Interference Protection of Television Services

Among other licensing and technical rules, new Lower 700 MHz band licensees must comply with the interference protection requirements set forth in Section 27.60 of the Commission's rules.²⁵ Generally, Section 27.60 establishes standards for protection of co- and adjacent-channel analog TV and DTV facilities. Thus, for example, a new licensee seeking to operate on the C block (710-716/740-746 MHz) portion of the Lower 700 MHz band must provide co-channel protection to nearby TV and DTV operations on Channels 54 and 59 and provide adjacent-channel protection to stations on Channels 53, 55, 58, and 60. New Lower 700 MHz band licensees should also be aware that incumbent broadcasters may be permitted to make certain changes to their authorized facilities.²⁶ Such modified facilities may be entitled to interference protection from new Lower 700 MHz band licensees. In addition, Appendix D of the *Lower 700 MHz Report and Order* describes additional adjacent-channel interference considerations that are designed to mitigate the possibility of base-to-base interference that may arise at base receive stations that are in close proximity to high power transmitters operating on adjacent channels.²⁷ Moreover, licensees intending to operate a facility at a power level of greater than 1 kilowatt must provide advance notice to the Commission and to licensees authorized in their area of operation.²⁸ New Lower 700 MHz licensees also will have to comply with any additional technical requirements or interference protection requirements that may be adopted as a result of any future rulemaking proceedings.²⁹

Potential bidders should recognize that the interference protection requirements for the Lower 700 MHz band are more stringent in certain respects relative to the interference standards that apply to the Upper 700 MHz band.³⁰ These interference obligations will remain in force until the end of the DTV transition period at which time analog TV and DTV broadcasters will be required to vacate both the Upper and Lower 700 MHz bands.³¹

Potential bidders should be aware that a greater number of broadcast incumbents exist in the Lower 700 MHz band relative to the Upper 700 MHz band. The Commission has also observed that, although there is approximately the same number of analog incumbents in both the Upper and Lower 700 MHz bands, the Lower 700 MHz band consists of less spectrum and, therefore, incumbent licensees are more densely situated across the band.³² Further, there is a significantly greater number of DTV assignments on the eight television channels in the Lower 700 MHz band, including licenses, construction permits, pending applications, and pending allotment petitions, than exist in the Upper 700 MHz band.³³ The Commission may also permit certain Channel 60-69 broadcasters to relocate

²⁵ 47 C.F.R. § 27.60 (co- and adjacent-channel interference protection to analog TV and DTV facilities).

²⁶ See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television, *Report and Order*, 19 FCC Rcd at 18279, 18330-18332 ¶¶ 116-121 (2004).

²⁷ *Lower 700 MHz Report and Order*, 17 FCC Rcd at 1121, Appendix D.

²⁸ 47 C.F.R. § 27.50(c)(5).

²⁹ As a convenience to potential applicants, the Bureau will issue shortly a due diligence announcement listing proceedings that may affect future operations in these bands. The Commission makes no representations or guarantees that the matters listed in this due diligence announcement are the only pending matters that could affect spectrum availability in these services.

³⁰ *Lower 700 MHz Report and Order*, 17 FCC Rcd at 1045-47 ¶¶ 52-57; 47 C.F.R. § 27.60(a).

³¹ *Lower 700 MHz Report and Order*, 17 FCC Rcd at 1033 n. 73. Because broadcast operations will exist in the core TV spectrum (on and below Channels 51), which is sub-adjacent to the Lower 700 MHz band, adjacent-channel and other interference protections may apply beyond the end of the DTV transition period.

³² *Id.* at 1039 ¶ 39.

³³ *Id.* at 1039 ¶ 39 and n. 111.

temporarily into Channels 52-58 pursuant to a voluntary clearing arrangement.³⁴

Negotiations with Incumbent Broadcast Licensees: The Commission has established a policy of facilitating voluntary clearing of the 700 MHz bands to allow for the introduction of new wireless services and to promote the transition of incumbent analog television licensees to DTV service.³⁵ Generally speaking, this policy provides that the Commission will consider specific regulatory requests needed to implement voluntary agreements between incumbent broadcasters and new licensees to clear the Lower 700 MHz band early, if consistent with the public interest. The fundamentals of the Commission's voluntary clearing policy for the 700 MHz bands were established in a series of decisions beginning with the adoption of the *Upper 700 MHz First Report and Order* in January 2000.³⁶ However, in light of certain differences between the Upper and Lower 700 MHz bands, the Commission decided not to extend certain aspects of its voluntary clearing policy to the Lower 700 MHz band, including the presumptions that were established in the Upper 700 MHz band for analyzing voluntary band-clearing proposals and the extended DTV construction period that was provided to certain single-channel broadcasters in connection with the arrangements for early clearing of the Upper 700 MHz band.³⁷ In considering such regulatory requests, the Commission will consider whether grant of the request would result in public interest benefits, such as making new or expanded public safety or other wireless services available to consumers or deploying wireless service to rural or other underserved communities.³⁸ The Commission intends to weigh these benefits against any likely public interest costs, such as the loss of any of the four stations in the designated market area with the largest audience share, the loss of the sole service licensed to the local community, the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service, or a negative effect on the pace of the DTV transition in the market.³⁹

Subsequent to the adoption by the Commission of its voluntary clearing policy, the Auction Reform Act of 2002

³⁴ *Id.* at 1034 ¶ 24.

³⁵ *Id.* at 1094-95 ¶¶ 182-184.

³⁶ The Commission initially stated that it would "consider specific regulatory requests needed to implement voluntary agreements" between incumbent broadcasters and new licensees to clear the Upper 700 MHz band early, if consistent with public interest. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Upper 700 MHz First Report and Order*, 15 FCC Rcd 476 (2000) ("*Upper 700 MHz First Report and Order*"). Subsequently, the Commission established a rebuttable presumption favoring the grant of requests that would both result in certain specific benefits and avoid specific detriments. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 20845 at 20870-71 ¶ 61 (2000) ("*Upper 700 MHz MO&O and FNPRM*"). These policies were later extended to "three-way" band clearing arrangements, in which non-Channel 59-69 broadcasters were also potential parties. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Carriage of the Transmissions of Digital Broadcast Stations, Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, Third Report and Order*, 16 FCC Rcd 2703, 2718 at ¶ 36 (2001) ("*Upper 700 MHz Third Report and Order*"). Subsequently, the Commission provided certain additional flexibility to facilitate voluntary agreements for early clearing and granted a request for relief from two specific DTV-related requirements. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Carriage of the Transmissions of Digital Broadcast Stations, Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, Order on Reconsideration of the Third Report and Order*, 16 FCC Rcd 21633 (2001). The fundamentals of this policy were extended to the Lower 700 MHz band in the *Lower 700 MHz Report and Order*. *See Lower 700 MHz Report and Order*, 17 FCC Rcd at 1094 n. 537 and 1095 ¶ 184.

³⁷ *Lower 700 MHz Report and Order*, 17 FCC Rcd at 1095 ¶ 184.

³⁸ *Id.* at 1096 n. 549.

³⁹ *Id.*

was enacted.⁴⁰ One provision of this legislation restricts the Commission's authority to waive certain broadcast interference standards and the minimum spacing requirements for certain proposals to relocate Channel 52-69 analog operations to a Channel 2-51 DTV allotment, if such waiver "will result in any degradation in or loss of service, or an increased level of interference to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted."⁴¹

Finally, we note that an existing or future wireless licensee in the 700 MHz bands may notify in writing a digital low power TV or TV translator operating on the same channel or first adjacent channel of its intention to initiate or change wireless operations and the likelihood of interference from the low power TV or translator station within its licensed geographic service area.⁴² Upon receipt of such notice, the digital LPTV or TV translator licensee must cease operation within 120 days unless it obtains the agreement of the wireless licensee to continue operations.⁴³

4. Due Diligence

Applicants are reminded that there are a number of incumbent broadcast television licensees already licensed and operating in the 710-716/740-746 MHz bands that will be subject to the upcoming auction. As discussed above in greater detail, the Commission made clear that geographic area licensees operating on the spectrum associated with Channels 52, 53, 54, 55, 56, 57, 58, 59, and 60 must comply with the co-channel and the adjacent channel provision of Section 27.60 of the Commission's rules.⁴⁴ These limitations may restrict the ability of such geographic licensees to use certain portions of the electromagnetic spectrum or provide service to certain regions in their geographic license areas.

To aid applicants, Attachment B to this Public Notice lists incumbent licensees operating in these bands. The Commission makes no representations or guarantees that the matters listed are the only pending matters that could affect spectrum availability in these services. Applicants should not rely solely on this list, but should carefully review the Commission's databases and records before formulating bidding strategies.

Licensing records for the Media Bureau are contained in the Media Bureau's Consolidated Data Base System (CDBS) and may be researched on the Internet at <http://www.fcc.gov/mb/>. Potential bidders may query the database online and download a copy of their search results if desired. Detailed instructions on using Search for Station Information, Search for Ownership Report Information and Search for Application Information and downloading query results are available online by selecting the CDBS Public Access (main) button at the bottom of the Electronic Filing and Public Access list section. The database searches return either station or application data. The application search provides an application link that displays the complete electronically filed application in application format. An AL/TC search under the application search link permits searching for Assignment of License/Transfer of Control groups using the AL/TC group lead application. For further details, click on the Help file.

Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418-2662, or via e-mail at mbinfo@fcc.gov.

⁴⁰ Auction Reform Act of 2002, Pub. L. No. 107-195, 116 Stat. 715 ("Auction Reform Act").

⁴¹ *Id.*, Section 6(a).

⁴² 47 C.F.R. § 74.7039(g).

⁴³ *Id.* See Amendments of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, *Report and Order*, 19 FCC Rcd. 19331, 19355-56, ¶¶ 72-73 (2004).

⁴⁴ 47 C.F.R. § 27.60; *see also* Section I.B.3 of this Public Notice.

Applicants 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 licenses available in Auction No. 60.

Applicants should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority (“STA”), waiver requests, petitions to deny, petitions for reconsideration, and applications for review may be pending before the Commission and relate to particular applicants or incumbent licensees. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 60. Applicants are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

Applicant should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. We note that resolution of such matters could have an impact on the availability of spectrum for Auction No. 60. In addition, although the Commission may continue to act on various pending applications, informal objections petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

As a convenience to potential applicants, the Bureau will issue shortly a due diligence announcement listing proceedings that may affect future operations in these bands. The Commission makes no representations or guarantees that the matters listed in this due diligence announcement are the only pending matters that could affect spectrum availability in these services.

5. Bidder Alerts

The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 60 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a “cold call” from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service (“IRS”), Federal Trade Commission (“FTC”), Securities and Exchange Commission (“SEC”), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be

directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals regarding Auction No. 60 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

6. National Environmental Policy Act Requirements

Licensees must comply with the Commission's rules regarding the National Environmental Policy Act ("NEPA").⁴⁵ The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility.⁴⁶ The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

C. Auction Specifics

1. Auction Date

The auction will begin on Wednesday, July 20, 2005, as announced in the Auction No. 60 *Comment Public Notice*.⁴⁷ The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day, and will continue until bidding has stopped on all licenses.

2. Auction Title

Auction No. 60 – Lower 700 MHz Band C block.

3. Bidding Methodology

The bidding methodology for Auction No. 60 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC's Integrated Spectrum Auction system ("ISAS" or "FCC Auction System"), and telephonic bidding will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

⁴⁵ 47 C.F.R. Ch. 1, Subpart I.

⁴⁶ 47 C.F.R. §§ 1.1305-1.1319.

⁴⁷ *Auction No. 60 Comment Public Notice*, DA 05-171.

4. Pre-Auction Dates and Deadlines

ISAS Orientation Sessions ⁴⁸	March 31, 2005 and April 21, 2005
Auction Seminar	May 24, 2005
Short-Form Application (FCC Form 175) Filing Window Opens.....	May 24, 2005; 12:00 p.m. ET
Short-Form Application (FCC Form 175) Filing Window Deadline	June 3, 2005; 6:00 p.m. ET
Upfront Payments (via wire transfer)	June 30, 2005; 6:00 p.m. ET
Mock Auction	July 18, 2005
Auction Begins	July 20, 2005

5. Requirements for Participation

Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6:00 p.m. Eastern Time (ET), June 3, 2005.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, June 30, 2005.
- Comply with all provisions outlined in this public notice.

⁴⁸ See “FCC Announces New Integrated Spectrum Auction System,” *Public Notice*, DA 05-454 (rel. Feb. 18, 2005).

6. General Contact Information

GENERAL AUCTION INFORMATION

General Auction Questions
Seminar Registration

FCC Auctions Hotline
(888) 225-5322, Press Option #2
or direct (717) 338-2888
Hours of service: 8:00 a.m. – 5:30 p.m. ET,
Monday through Friday

AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations

Auctions and Spectrum Access Division
(202) 418-0660

LICENSING INFORMATION

Rules, Policies, Regulations
Licensing Issues
Due Diligence
Incumbency Issues

Mobility Division
(202) 418-0620

TECHNICAL SUPPORT

Electronic Filing
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

PAYMENT INFORMATION

Wire Transfers
Refunds

FCC Auctions Accounting Branch
(202) 418-0578
(202) 418-2843 (Fax)

TELEPHONIC BIDDING

Will be furnished only to qualified bidders

FCC COPY CONTRACTOR

Additional Copies of
Commission Documents

Best Copy and Printing, Inc
445 12th Street, SW, Room CY-B402
Washington, DC 20554
(800) 378-3160
<http://www.bcpweb.com>

PRESS INFORMATION

Lauren Patrich (202) 418-7944

FCC FORMS

(800) 418-3676 (outside Washington, DC)
(202) 418-3676 (in the Washington area)
<http://www.fcc.gov/formpage.html>

FCC INTERNET SITES

<http://www.fcc.gov>
<http://wireless.fcc.gov/auctions>
<http://wireless.fcc.gov/uls>

II. SHORT-FORM (FCC FORM 175) FILING REQUIREMENTS

A party's application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits.⁴⁹ In addition, for Auction No. 60, if an applicant claims eligibility for a bidding credit, the information provided will be used in determining whether the applicant is eligible for the claimed bidding credit. Applicants to participate in Auction No. 60 must file FCC Form 175 electronically by 6:00 p.m. ET on June 3, 2005. Applicants bear full responsibility for submission of timely and complete FCC Form 175 applications. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license.⁵⁰ Applicants should read the instructions set forth in Attachment D to this public notice carefully and should consult the rules to ensure that, in addition to the materials described below, all the information that is required under the Commission's rules is included with their FCC Form 175 applications.

An entity may not submit more than one short-form application in a single auction. In the event that a party submits multiple FCC Forms 175, such additional applications will be dismissed.

Applicants should further note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

A. Preferences for Small Businesses and Others

1. Size Standards for Bidding Credits

In the *Lower 700 MHz Report and Order*, the Commission determined that three levels of bidding credits were appropriate for the CMA licenses in the C block.⁵¹ A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.⁵²

For Auction No. 60, bidding credits will be available to small businesses, very small businesses, and entrepreneurs, or consortia thereof, as defined in Section §27.702,⁵³ for the Lower 700 MHz band licenses:

- A bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years ("entrepreneur") will receive a 35 percent discount on its winning bids.⁵⁴
- A bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years ("very small business") will receive a 25 percent discount on its winning bids.⁵⁵

⁴⁹ See 47 C.F.R. § 1.2105.

⁵⁰ See *id.*

⁵¹ *700 MHz Report and Order*, 17 FCC Rcd at ¶¶ 172-73.

⁵² 47 C.F.R. § 1.2110(f).

⁵³ 47 C.F.R. § 27.702

⁵⁴ 47 C.F.R. § 1.2110(f)(2)(i).

- A bidder with attributed average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years (“small business”) will receive a 15 percent discount on its winning bids.⁵⁶

Bidding credits are not cumulative; a qualifying applicant receives the 35 percent, 25 percent, or 15 percent bidding credit on its winning bid, but only one credit per license.

Applicants should note that they will be required to provide information regarding revenues attributable to the applicant and related parties on their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as a small business, very small business, or entrepreneur (or consortia of a small business, very small business, or entrepreneur) for this auction.⁵⁷ See Bidding Credit Revenue Disclosures section, below and Attachment D.

2. Tribal Lands Bidding Credit

While the Commission has taken steps to encourage the growth of wireless services in federally recognized tribal lands by adopting a bidding credit program,⁵⁸ we note that there are no such lands within the geographic area covered by the licenses offered in this auction. Thus, tribal lands bidding credits will not be available to winning bidders in Auction No. 60.

3. Installment Payments

Installment payment plans will not be available in Auction No. 60.

B. License Selection

In Auction No. 60, applicants must select the licenses on which they want to bid from the “Eligible Licenses” list. The applicant may select all the licenses in the list (by using the **SELECT ALL** option) or select and add individual licenses from the list. Be advised that there is no opportunity to change license selection after the short-form filing deadline.⁵⁹ It is critically important that you confirm your license selection because the FCC Auction System will not accept bids on licenses that an applicant has not selected on its FCC Form 175.

C. Consortia and Joint Bidding Arrangements

Applicants will be required to indicate on their applications whether they have entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid.⁶⁰ Applicants will also be required to identify on their short-form applications any parties with whom they have entered into any

⁵⁵ 47 C.F.R. § 1.2110(f)(2)(ii).

⁵⁶ 47 C.F.R. § 1.2110(f)(2)(iii).

⁵⁷ 47 C.F.R. § 1.2105.

⁵⁸ See generally, *Extending Wireless Telecommunications Services to Tribal Lands*, WT Docket No. 99-266, *Third Report and Order*, 19 FCC Rcd 17652 (2004); *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 4775, 4778-79 ¶ 10 (2003); *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 11794 (2000).

⁵⁹ 47 C.F.R. § 1.2105(b)(2).

⁶⁰ 47 C.F.R. § 1.2105(a)(2)(ix).

consortium arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure.⁶¹ If an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue such discussions with applicants for any of the same geographic license areas after the deadline.⁶²

A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants.⁶³ While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Ownership Disclosure Requirements

All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by Sections 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to fully disclose information on the real party or parties-in-interest and ownership structure of the bidding entity. The ownership disclosure standards for the short form are set forth in Section 1.2112 of the Commission's rules.⁶⁴ To simplify filling out Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with Form 175, such as information submitted in an on-line Form 602, will automatically be entered into Form 175. Applicants are responsible for information submitted in Form 175 being complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing Form 175. Applicants can update any information that needs to be changed directly in the Form 175.

E. Bidding Credit Revenue Disclosures

Entities applying to bid as small businesses, very small businesses, or entrepreneurs (or consortia of small businesses, very small businesses, or entrepreneurs) will be required to disclose on their FCC Form 175 short-form applications the gross revenues for the preceding three years of each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. *Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. In order to comply with disclosure requirements for bidding credit eligibility, an applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, the gross revenues for each of the preceding three years.* If the applicant is applying as a consortium of small businesses, very small businesses, or entrepreneurs, this information must be provided for each consortium member.

Controlling interest standard. The Commission uses a "controlling interest" standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future

⁶¹ 47 C.F.R. §§ 1.2105(a)(2)(viii), (c)(1).

⁶² See above Section I.B.2.

⁶³ 47 C.F.R. § 1.2105(c)(4)(i), (ii).

⁶⁴ 47 C.F.R. § 1.2105 requires the disclosure on the short-form of the applicant's ownership information as set forth in 47 C.F.R. § 1.2112.

auctions.⁶⁵ The Commission has modified its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes included exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met.⁶⁶ The Commission also clarified that in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors will not be attributed to the applicant.⁶⁷

Control. The term "control" includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control*. *De facto* control is determined on a case-by-case basis.⁶⁸ The following are some common indicia of *de facto* control:

- the entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- the entity plays an integral role in management decisions.

Attribution for small business, very small business and entrepreneur eligibility. In determining which entities qualify as small businesses, very small businesses, or entrepreneurs, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates will be counted in determining small business eligibility.

A consortium of small businesses, very small businesses, or entrepreneurs is a "conglomerate organization formed as a joint venture between or among mutually independent business firms," each of which *individually* must satisfy one of the definitions of small business, very small business, or entrepreneur in Sections 1.2110(f), 27.702. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small business, very small business, or entrepreneur credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

F. Provisions Regarding Former and Current Defaulters

Each applicant must indicate on its FCC Form 175 application under penalty of perjury whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section

⁶⁵ *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15323-27, ¶¶ 59-67.

⁶⁶ *Order on Reconsideration of the Part 1 Fifth Report and Order*, 18 FCC Rcd at 10186-194 ¶¶ 10-18; *Second Order on Reconsideration of the Fifth Report and Order*, 20 FCC Rcd 1942 (2005).

⁶⁷ *Order on Reconsideration of the Part 1 Fifth Report and Order*, 18 FCC Rcd at 10185-186 ¶¶ 8-9. However, to the extent that the officers and directors of the applicant are controlling interest holders of other entities, the gross revenues of those entities will be attributed to the applicant.

⁶⁸ For further guidance on the issue of *de facto* control, see the Commission's affiliation rule at 47 C.F.R. §1.2110(b)(5); see also *Intermountain Microwave*, 12 FCC 2d 559, 560 (1963) and *Application of Baker Creek Communications, L.P., for Authority to Construct and Operate Local Multipoint Distribution Services in Multiple Basic Trading Areas*, *Memorandum Opinion and Order*, 13 FCC Rcd 18709 (1998).

1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency.⁶⁹ In addition, each applicant must certify on its FCC Form 175 application under penalty of perjury that the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110, is not in default on any payment for Commission licenses (including down payments) and that it is not delinquent on any non-tax debt owed to any Federal agency.⁷⁰ Prospective applicants are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

“Former defaulters” — *i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies — are eligible to bid in Auction No. 60, provided that they are otherwise qualified. However, as discussed *infra* in Section III.E.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.⁷¹

“Current defaulters” — *i.e.*, applicants, including their attributable interest holders, that are in default on any payment for Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency — are not eligible to bid in Auction No. 60.⁷²

Applicants are encouraged to review the Bureau’s previous guidance on default and delinquency disclosure requirements in the context of our short-form application process.⁷³ Applicants are reminded that the Commission’s Red Light Display System, which provides information regarding debts owed to the Commission, may not be determinative of an applicant’s ability to comply with the default and delinquency disclosure requirements.⁷⁴

G. Other Information

Applicants owned by minorities or women, as defined in Section 1.2110(c)(2), may identify themselves in filling

⁶⁹ 47 C.F.R. § 1.2105(a)(2)(xi); *Order on Reconsideration of the Part 1 Third Report and Order*, 15 FCC Rcd at 15317, n. 142.

⁷⁰ 47 C.F.R. § 1.2105(a)(2)(x); Amendment of Part 1 of the Commission’s Rule — Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293, 15317 ¶ 42 (“*Order on Reconsideration of the Part 1 Third Report and Order*”).

⁷¹ 47 C.F.R. § 1.2106(a).

⁷² 47 C.F.R. § 1.2105(b)(1); 47 C.F.R. § 1.2105(a)(2)(x); *see Part 1 Fifth Report and Order*, 15 FCC Rcd at 15317 n.142 (“If any one of an applicant’s controlling interests or their affiliates...is in default on any Commission licenses or is delinquent on any non-tax debt owed to any Federal agency at the time the applicant files it[s] Form 175, the applicant will not be able to make the certification required by Section 1.2105(a)(2)(x)...and will not be eligible to participate in Commission auctions.”)

⁷³ *See* “WTB Reminds Prospective Broadband PCS Spectrum Auction Applicants of Default and Delinquency Disclosure Requirements,” *Public Notice*, 19 FCC Rcd 21920 (WTB 2004) (providing information on compliance with the default and delinquency disclosure requirements for auction applicants in Auction No. 58); Letter to Cheryl A. Tritt, Esq. from Margaret Wiener, 19 FCC Rcd 22907 (WTB-ASAD 2004) (clarifying the term “debt” or “non-tax debt” as referenced in Sections 1.2105(a) and 1.2106(a) of the Commission’s rules).

⁷⁴ *See* “WTB Reminds Prospective Broadband PCS Spectrum Auction Applicants of Default and Delinquency Disclosure Requirements,” *Public Notice*, 19 FCC Rcd 21920 (WTB 2004) (addressing relationship between Commission’s Red Light Display System and Form 175 default and delinquency disclosure requirements for auction applicants).

out their FCC Form 175 short-form application regarding this status.⁷⁵ This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions.

H. Minor Modifications to Short-Form Applications (FCC Form 175)

After the short-form filing deadline (6:00 p.m. ET June 3, 2005), applicants may make only minor changes to their applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).⁷⁶ Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and addresses and phone numbers of the applicants and their contact persons. Applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with a unique file number. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auktion60@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 60 and the name of the applicant. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

I. Maintaining Current Information in Short-Form Applications (FCC Form 175)

Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications⁷⁷ will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. PRE-AUCTION PROCEDURES

A. ISAS Demonstrations

In connection with its announcement of the release of ISAS, the new auction application filing and bidding system, the Bureau is planning to conduct several ISAS orientation sessions in which the software will be demonstrated to the public. An opportunity for hands-on access to the software will also be available. FCC staff will be on hand to assist in using the new system and to answer questions. These sessions will be held on March 31 and April 21, 2005, and will also be available via webcast. Registration is required.⁷⁸

B. Auction Seminar – May 24, 2005

On Tuesday, May 24, 2005, the FCC will sponsor a seminar for parties interested in participating in Auction No. 60 at the Federal Communications Commission, located at 445 12th Street, SW, Washington, DC. The seminar will provide attendees with information about pre-auction procedures, completing FCC Form 175, auction conduct, the FCC Auction System, auction rules, and the Lower 700 MHz band service rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

⁷⁵ 47 C.F.R. § 1.2110(c)(2).

⁷⁶ See 47 C.F.R. § 1.2105.

⁷⁷ See 47 C.F.R. § 1.2105(b)(2),

⁷⁸ See “FCC Announces New Integrated Spectrum Auction System,” *Public Notice*, DA 05-454 (rel. Feb. 18, 2005).

To register, complete the registration form attached hereto as Attachment C and submit it by Friday, May 20, 2005. Registrations are accepted on a first-come, first-served basis. The seminar is free of charge.

C. Short-Form Application (FCC Form 175) — Due June 3, 2005

In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically⁷⁹ and received at the Commission no later than 6:00 p.m. ET on June 3, 2005. *Late applications will not be accepted.* There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See Section III.E, below.*

Applications may generally be filed at any time beginning at noon ET on May 24, 2005, until 6:00 p.m. ET on June 3, 2005. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on June 3, 2005.

Applicants must always press the **SUBMIT** button on the *Certify & Submit* screen of the electronic form to successfully submit their FCC Form 175s or modifications. Any form that is not submitted will not be reviewed by the FCC. Information about accessing, completing, and viewing the FCC Form 175 is included in Attachment D. Technical support is available at (877) 480-3201 option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, *all calls to the hotline are recorded.*

D. Application Processing and Minor Corrections

After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) those applications accepted for filing; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for resubmitting such corrected applications.

As described more fully in the Commission's rules, after the June 3, 2005, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).⁸⁰

E. Upfront Payments — Due June 30, 2005

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. **All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on June 30, 2005.**

1. Making Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on June 30, 2005. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

⁷⁹ 47 C.F.R. § 1.2105(a).

⁸⁰ 47 C.F.R. § 1.2105; *see also* Two Way Radio of Carolina, Inc., *Memorandum Opinion and Order*, 14 FCC Rcd 12035 (1999).

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
500 Ross St.
Pittsburgh, PA 15262
BENEFICIARY: FCC/Account # 910-0171
OBI Field: (Skip one space between each information item)
"AUCTIONPAY"
APPLICANT FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 21)
PAYMENT TYPE CODE (same as FCC Form 159, block 24A: A60U)
FCC CODE 1 (same as FCC Form 159, block 28A: "60")
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. # 358430

NOTE: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer — Auction Payment for Auction Event No. 60." In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline.⁸¹ **Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.**

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 60 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the June 30, 2005, deadline will result in dismissal of the application and disqualification from participation in the auction.

2. FCC Form 159

A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be faxed to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E to this public notice. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

⁸¹ See Letter from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, to Patrick Shannon, Esq., Counsel for Lynch 3G Communications Corporation, 18 FCC Rcd 11552 (2003).

3. Amount of Upfront Payment

In the *Part 1 Order* the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction.⁸² In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that “former defaulters,” *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments 50 percent greater than non-“former defaulters.”⁸³ For purposes of this calculation, the “applicant” includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by Section 1.2110 of the Commission’s rules.⁸⁴

In the *Auction No. 60 Comment Public Notice*, we proposed that the amount of the upfront payment would determine a bidder’s initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids.⁸⁵ In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have a current eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant’s total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold provisionally winning bids at any given time.⁸⁶

In the *Auction No. 60 Comment Public Notice*, the Bureau proposed upfront payments on a license-by-license basis using a formula based on bandwidth and the license area population:⁸⁷

$\$0.005 * \text{MHz} * \text{License Area Population with a minimum of } \$1,000 \text{ per license.}$

The specific upfront payments and bidding units for each license are set forth in Attachment A of this Public Notice.⁸⁸

In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to be active on (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. *Applicants*

⁸² Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Proceeding, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd 5686, 5697-98 ¶ 16 (1997) (“*Part 1 Order*”).

⁸³ *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17 ¶¶ 40-42; 47 C.F.R. § 1.2106(a); *see* 47 C.F.R. § 1.2105(a)(2)(xi).

⁸⁴ 47 C.F.R. § 1.2110(b)..

⁸⁵ *Auction No. 60 Comment Public Notice* at 3.

⁸⁶ Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. (*See* below Section I.B.4).

⁸⁷ All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. *See* Census 2000 Summary File 1 (SF1) and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

⁸⁸ Results are rounded using our standard rounding procedure: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.

Example: Upfront Payments and Bidding Flexibility				
Market Number	Block	Market Name	Bidding Units	Upfront Payment
CMA169	C	Mayaguez, PR	14,000	\$14,000
CMA202	C	Arecibo, PR	12,000	\$12,000
<p>If a bidder wishes to bid on both licenses in a round, it must have selected both on its FCC Form 175 and purchased at least 26,000 bidding units (14,000 + 12,000). If a bidder only wishes to bid on one, but not both, purchasing 14,000 bidding units would meet the requirement for either license. The bidder would be able to bid on either license, <u>but not both at the same time</u>. If the bidder purchased only 12,000 bidding units, it would have enough eligibility for the Arecibo, PR, license but not for the Mayaguez, PR, license.</p>				

Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units on which they wish to be active by 1.5.⁸⁹ In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit. If a former defaulter fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the licenses applied for on its Form 175, the applicant will not be eligible to participate in the auction.

4. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

The Commission will use wire transfers for all Auction No. 60 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418-2843. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418-0578.

Name of Bank
 ABA Number
 Address of Bank
 Contact and Phone Number
 Account Number to Credit
 Name of Account Holder
 FCC Registration Number (FRN)
 Taxpayer Identification Number (see below)
 Correspondent Bank (if applicable)
 ABA Number
 Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.)⁹⁰ Eligibility for refunds is discussed in Section V.F., *below*.

⁸⁹ 47 C.F.R. § 1.2106(a).

⁹⁰ 47 C.F.R. § 1.1910.

F. Auction Registration

Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. **The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID cards which will be required to place bids (or access the FCC Auction System) and the telephonic bidding phone number.**

Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, July 14, 2005, should contact the Auctions Hotline at (717) 338-2888. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

Qualified bidders should note that lost SecurID cards can be replaced only by appearing in person at the FCC headquarters, located at 445 12th St., SW, Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

G. Remote Electronic Bidding

The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid telephonically or electronically. Each applicant should indicate its bidding preference – electronic or telephonic – on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards, the telephonic bidding phone number, and the Integrated Spectrum Auctions System (ISAS) Bidder's Guide are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 60.

Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

H. Mock Auction

All qualified bidders will be eligible to participate in a mock auction on Monday, July 18, 2005. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. AUCTION EVENT

The first round of bidding for Auction No. 60 will begin on Wednesday, July 20, 2005. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

1. Simultaneous Multiple Round Auction

In the *Auction No. 60 Comment Public Notice*, we proposed to award all licenses in Auction No. 60 in a simultaneous multiple round auction.⁹¹ In a simultaneous multiple round auction, all licenses are available during the entire auction, and bids are accepted on any license until the auction concludes. We conclude that it is operationally feasible and appropriate to auction the Lower 700 MHz band licenses through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

2. Eligibility and Activity Rules

In the *Auction No. 60 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the initial (maximum) eligibility (as measured in bidding units) for each bidder.⁹² We received no comments on this issue.

For Auction No. 60 we adopt this proposal. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A on a bidding unit per dollar basis. Bidding units for a given license do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that total number of bidding units. **The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.**

In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the provisionally winning bidder at the end of the previous bidding round and does not withdraw the provisionally winning bid in the current round, or if it submits a bid in the current round (*see* "Minimum Acceptable Bid Amounts and Bid Increment Amounts" in Section IV.B.3, *below*). The minimum required activity is expressed as a percentage of the bidder's current eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under "Auction Stages" in Section IV.A.3 and "Stage Transitions" in Section IV.A.4, *below*), we adopt them for Auction No. 60.

3. Auction Stages

In the *Auction No. 60 Comment Public Notice*, we proposed to conduct the auction in two stages and employ an activity rule. We further proposed that, in each round of Stage One, a bidder desiring to maintain its current bidding eligibility would be required to be active on licenses representing at least 80 percent of its current bidding

⁹¹ *Auction No. 60 Comment Public Notice* at 2.

⁹² *Id.* at 3.

eligibility.⁹³ Finally, we proposed that in each round of Stage Two, a bidder desiring to maintain its current bidding eligibility would be required to be active on at least 95 percent of its current bidding eligibility. We received no comments on this proposal.

We adopt our proposals for the activity rules and stages. Below are the activity levels for each stage of the auction. The Bureau reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current bidding eligibility will be required to be active on licenses representing at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by twenty-nineteenths (20/19).

CAUTION: Since activity requirements increase in Stage Two, bidders must carefully check their activity during the bidding period of the first round following a stage transition to ensure that they are meeting the increased activity requirement. This is especially critical for bidders that have provisionally winning bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by either logging in to the FCC Auction System or by accessing the "Bidder Summaries" on the public results page.

Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 60.

4. Stage Transitions

In the *Auction No. 60 Comment Public Notice*, we proposed that the auction would generally advance to the next stage (*i.e.*, from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new provisionally winning bids, is approximately 20 percent or below for three consecutive rounds of bidding in each Stage. We further proposed that the Bureau would retain the discretion to change stages unilaterally by announcement during the auction. This determination, we proposed, would be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.⁹⁴ We received no comments on this issue.

We adopt our proposal. Thus, the auction will start in Stage One and will generally advance to the next stage (*i.e.*, from Stage One to Stage Two) when, in each of three consecutive rounds of bidding, the provisionally winning bids have been placed on 20 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the

⁹³ *Id.* at 3.

⁹⁴ *Id.* at 3.

percentages of licenses (as measured in bidding units) on which there are new bids,⁹⁵ the number of new bids, and the percentage increase in revenue. We believe that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 60.

5. Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 60 Comment Public Notice*, we proposed that each bidder in the auction would be provided three activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction.⁹⁶ We received no comments on this issue.

Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided **three activity rule waivers**. **Bidders may use an activity rule waiver** in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum activity level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either applied proactively by the bidder (known as a "proactive waiver") or applied automatically by the FCC Auction System (known as an "automatic waiver") and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round. We are satisfied that our practice of providing three waivers over the course of the auction provides a sufficient number of waivers and flexibility to the bidders, while safeguarding the integrity of the auction.

The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any round where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not satisfy the required activity level, the eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction.

A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the bidding round by using the "reduce eligibility" function in the FCC Auction System. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (*see* Section IV.A.3 *above*). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the "apply waiver" function in the FCC Auction System) during a bidding round in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver applied by the FCC Auction System in a round in which there are no new bids or withdrawals will not keep the auction open. **Note: Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.**

6. Auction Stopping Rules

For Auction No. 60, the Bureau proposed to employ a simultaneous stopping rule approach.⁹⁷ The Bureau also

⁹⁵ When monitoring activity for determining when to change stages, we may consider the percentage of bidding units of the licenses receiving new provisionally winning bids, excluding any FCC-held licenses.

⁹⁶ *Auction No. 60 Comment Public Notice* at 4.

⁹⁷ *Id.* at 8.

sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, places a withdrawal, or submits any new bids on any license on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous provisionally winning bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had applied a waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

In addition, we proposed that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (“special stopping rule”). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

We proposed to exercise these options only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time.⁹⁸ Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity.

We received no comments concerning the auction stopping rules; therefore we adopt the above proposals. Auction No. 60 will begin under the simultaneous stopping rule approach, and the Bureau will retain the discretion to invoke the other versions of the stopping rule. We believe that these stopping rules are most appropriate for Auction No. 60, because our experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

7. Auction Delay, Suspension, or Cancellation

In the *Auction No. 60 Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding.⁹⁹

Because our approach to notification of delay during an auction has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

⁹⁸ *Id.* at 8-9.

⁹⁹ *Id.* at 4-5.

B. Bidding Procedures

1. Round Structure

The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

2. Reserve Price or Minimum Opening Bid

Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.¹⁰⁰ Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.¹⁰¹ Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned.¹⁰² The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.¹⁰³

In the *Auction No. 60 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 60 and to retain discretion to lower the minimum opening bids.¹⁰⁴ Specifically, for Auction No. 60, the Bureau proposed the following license-by-license basis using a formula based on bandwidth and license area population:¹⁰⁵

\$0.01 * MHz * License Area Population with a minimum of \$1,000 per license.

In the alternative, the Bureau sought comment on whether, consistent with the Section 309(j), the public interest would be served by having no minimum opening bid or reserve price.¹⁰⁶

¹⁰⁰ 47 U.S.C. § 309(j)(4)(F).

¹⁰¹ See Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 375, 455-456 ¶ 141 (1997) ("Part 1 Third Report and Order").

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Auction No. 60 Comment Public Notice* at 5-6.

¹⁰⁵ All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. See Census 2000 Summary File 1 (SF1) and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

¹⁰⁶ *Auction No. 60 Comment Public Notice* at 6.

We adopt our proposal. The minimum opening bid amounts we adopt for Auction No. 60 are reducible at the discretion of the Bureau. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid amount on specific licenses.

The specific minimum opening bid amounts for each license available in Auction No. 60 are set forth in Attachment A.¹⁰⁷

3. Minimum Acceptable Bid Amounts and Bid Increment Amounts

In the *Auction No. 60 Comment Public Notice*, we proposed to use a minimum acceptable bid increment of 10 percent. This means that the minimum acceptable bid amount for a license will be approximately 10 percent greater than the provisionally winning bid amount for the license. The minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage – *e.g.*, if the minimum acceptable bid percentage is 10 percent, the minimum acceptable bid amount calculation is (provisionally winning bid amount) * (1 + 0.10), rounded or (provisionally winning bid amount) * (1.10), rounded. We will round the result using our standard rounding procedures.¹⁰⁸ We further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if it determines that circumstances so dictate.¹⁰⁹ We received no comment on this issue. We will begin the auction with a minimum acceptable bid percentage of 10%.

In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts.¹¹⁰ The FCC Auction System will list the nine acceptable bid amounts for each license. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount.

The nine acceptable bid amounts for each license consist of the minimum acceptable bid amount and eight other bid amounts based on the bid increment percentage. The first additional acceptable bid amount, above the minimum acceptable bid amount, equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded – *e.g.*, if the bid increment percentage is 10 percent, then the next bid amount will equal (minimum acceptable bid amount) * 1.10, rounded, the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.20, rounded; the third additional acceptable bid amount equals the minimum acceptable bid amount times one plus three times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.30, rounded, etc. We will begin the auction with a bid increment percentage of 10%. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

In the case of a license for which the provisionally winning bid amount has been withdrawn,¹¹¹ the minimum acceptable bid amount will equal the amount of the second highest bid amount received for the license. The

¹⁰⁷ Results are rounded using our standard rounding procedure: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

¹⁰⁸ *Id.*

¹⁰⁹ *Auction No. 60 Comment Public Notice* at 7.

¹¹⁰ Bidders must have sufficient eligibility to place a bid on the particular license. *See supra* Section III.E.3 “Amount of Upfront Payment.”

¹¹¹ *See infra* Section IV.B.6 “Bid Removal and Bid Withdrawal.”

additional bid amounts above the minimum acceptable bid amount are calculated using the bid increment percentage as described in the previous paragraph.

The Bureau retains the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System. The Bureau may also use its discretion to adjust the minimum bid increment amount without prior notice if circumstances warrant.

4. Provisionally Winning Bids

At the end of each bidding round, a provisionally winning bid amount will be determined based on the highest bid amount received for each license. A high bid from a previous round is referred to as a “provisionally winning bid.” A “provisionally winning bid” will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round. Bidders are reminded that provisionally winning bids are counted as activity for purposes of the activity rule.¹¹²

In the *Auction No. 60 Comment Public Notice*, the Bureau proposed to use a random number generator to select a provisionally winning bid in the event of identical high bid amounts being submitted on a license in a given round (*i.e.*, tied bids).¹¹³ No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A Sybase® SQL pseudo-random number generator based on the L’Ecuyer algorithms will be used to assign a random number to each bid.¹¹⁴ The tied bid having the highest random number will become the provisionally winning bid. Eligible bidders, including the provisionally winning bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in subsequent rounds, the provisionally winning bid from the previous round will win the license, unless that provisionally winning bid was withdrawn. If any bids are received on the license in a subsequent round, the provisionally winning bid will once again be determined based on the highest bid amount received for the license.

5. Bidding

During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw provisionally winning bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder’s bid for the round. Bidders should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder’s activity at the close of the round.

Please note that all bidding will take place remotely either through the FCC Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a telephonic bid submission). There will be no on-site bidding during Auction No. 60.

A bidder’s ability to bid on specific licenses in the first round of the auction is determined by two factors: (1) the

¹¹² See *supra* Section IV.A.2.

¹¹³ *Auction No. 60 Comment Public Notice* at 7.

¹¹⁴ A description of the L’Ecuyer algorithms can be found in L’Ecuyer, P. (1999) “Good Parameters and Implementations for Combined Multiple Recursive Random Number Generators” *Operations Research* 47 (1), pp.159-164. A longer version of this paper and the C code for the algorithms can be found on the author’s website at <http://www.iro.umontreal.ca/~lecuyer/papers.html>.

licenses applied for on FCC Form 175 and (2) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the password generated by the SecurID card and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a “round summary” for each round after they have completed all of their activity for that round.

In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts.¹¹⁵ For each license, the FCC Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Auction System also includes an “upload” function that allows bidders to upload text files containing bid information.

Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount. Once there is a provisionally winning bid on a license, the FCC Auction System will calculate a minimum acceptable bid amount for that license for the following round, as described in Section IV.B.3.

Finally, bidders are cautioned to select their bid amounts carefully because, as explained in the following section, bidders that withdraw a provisionally winning bid from a previous round, even if the bid was mistakenly or erroneously made, are subject to bid withdrawal payments.

6. Bid Removal and Bid Withdrawal

In the *Auction No. 60 Comment Public Notice*, the Commission proposed bid removal and bid withdrawal procedures.¹¹⁶ With respect to bid withdrawals, the Commission proposed limiting each bidder to withdrawals in no more than one round during the course of the auction. The round in which withdrawals are used would be at the bidder’s discretion. We received no comments on this issue.

Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the “remove bids” function in the FCC Auction System, a bidder may effectively “unsubmit” any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder’s activity for the round in which it is removed, *i.e.*, a bid that is removed does not count toward bidding activity. These procedures will enhance bidder flexibility during the auction, and therefore we adopt them for Auction No. 60.

Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw provisionally winning bids from previous rounds using the “withdraw bids” function in the FCC Auction System (assuming that the bidder has not reached its withdrawal limit). A provisionally winning bidder that withdraws its provisionally winning bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). **Note: Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.**

In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various licenses in combination, we conclude that, for Auction No. 60, adoption of a limit on the use of withdrawals to one round per bidder is appropriate. By doing

¹¹⁵ Bidders must have sufficient eligibility to place a bid on the particular license. See *supra* Section III.E.3 “Amount of Upfront Payment.”

¹¹⁶ *Auction No. 60 Comment Public Notice* at 7-8.

so we believe we strike a reasonable compromise that will allow bidders to use withdrawals. Our decision on this issue is based upon our experience in prior auctions, particularly the PCS D, E and F block and 800 MHz SMR auctions, and is in no way a reflection of our view regarding the likelihood of any speculation or “gaming” in this auction.

The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to one round. The round will be at the bidder’s discretion and there will be no limit on the number of bids that may be withdrawn in the round. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). Bidders should note that abuse of the Commission’s bid withdrawal procedures could result in the denial of the ability to bid on a market.

If a provisionally winning bid is withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid received for the license, which may be less than, or in the case of tied bids, equal to, the amount of the withdrawn bid.¹¹⁷ To set the additional bid amounts, the second highest bid amount also will be used in place of the provisionally winning bid in the formula used to calculate bid increment amounts. The Commission will serve as a “place holder” provisionally winning bidder on the license until a new bid is submitted on that license.

Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction.¹¹⁸ If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the provisionally winning bid in the same or subsequent auction(s).¹¹⁹ In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s).¹²⁰ This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

Section 1.2104(g)(1) of the rules sets forth the payment obligations of a bidder that withdraws a high bid on a license during the course of an auction, and provides for the assessment of interim bid withdrawal payments.¹²¹ As amended, Section 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. Section 1.2104(g) provides specific examples showing application of the bid withdrawal payment rule.¹²²

¹¹⁷ The Bureau retains the discretion to lower the minimum acceptable bid on such licenses in the next round or in later rounds.

¹¹⁸ 47 C.F.R. §§ 1.2104(g), 1.2109.

¹¹⁹ The payment will equal the lower of: (1) the difference between the net withdrawn bid and the subsequent net winning bid; or (2) the difference between the gross withdrawn bid and the subsequent gross winning bid. *See* 47 C.F.R. § 1.2104(g)(1).

¹²⁰ See following paragraph for discussion of interim bid withdrawal payments.

¹²¹ 47 C.F.R. § 1.2104(g)(1); *see Part 1 Fifth Report and Order*, 15 FCC Rcd at 15302 ¶ 15.

¹²² 47 C.F.R. § 1.2104(g).

7. Round Results

Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureau will compile reports of all bids placed, bids withdrawn, current provisionally winning bids, new minimum acceptable bid amounts, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 60 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

8. Auction Announcements

The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link in the FCC Auction System.

9. Maintaining the Accuracy of FCC Form 175 Information

As noted in Section II.H., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications, for example, deletion and addition of authorized bidders (to a maximum of three). Applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auktion60@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 60 and the name of the applicant. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

V. POST-AUCTION PROCEDURES

A. Down Payments and Withdrawn Bid Payments

After bidding has ended, the Commission will issue a public notice declaring the auction closed and identifying winning bidders, down payments, final payments, and any withdrawn bid payments due.

Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 60 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business, very small business, or entrepreneur bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 C.F.R. § 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," Section IV.B.6. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Final Payments

Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 601)

Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) for each license won through Auction No. 60. Winning bidders that are small businesses, very small businesses, or entrepreneurs must demonstrate their eligibility for small business, very small business, or entrepreneur bidding credits. *See* 47 C.F.R. § 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

D. Ownership Disclosure Information Report (FCC Form 602)

At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 C.F.R. §§ 1.913, 1.919, and 1.2112. An ownership disclosure record was automatically created in the Universal Licensing System (ULS) for any applicant that submitted an FCC Form 175. However, winning bidders will be required to review and confirm that it is complete and accurate as of the date of filing Form 601. Further instructions will be provided to auction winning bidders at the close of the auction.

E. Default and Disqualification

Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 C.F.R. § 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid.¹²³ In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.¹²⁴

F. Refund of Remaining Upfront Payment Balance

All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 60 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from the applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a provisionally winning bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund requests to:

Federal Communications Commission
Financial Operations Center
Auctions Accounting Group
Gail Glasser
445 12th Street, SW, Room 1-C864
Washington, DC 20554

Bidders are encouraged to file their refund information electronically using the **Refund Information** icon in the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418-2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

NOTE: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418-0578.

¹²³ See 47 C.F.R. § 1.2109(b) and (c).

¹²⁴ 47 C.F.R. § 1.2109(d).

Media Contact:

For press inquiries: Lauren Patrich at (202) 418-7944

Auctions and Spectrum Access Division:

For legal questions: Howard Davenport at (202) 418-0660

For general auction questions: Roy Knowles or Lisa Stover at (717) 338-2888

Mobility Division:

For legal questions: Erin McGrath at (202) 418-0620

For technical questions: Keith Harper at (202) 418-0620

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VI. ATTACHMENT A

Auction No. 60 – Lower 700 MHz Band Licenses to be Auctioned

Market Number	Market Name	License Number	Block	Frequencies (MHz)	Bandwidth (MHz)	Population	Bidding Units	Upfront Payment	Minimum Opening Bid
MSA / RSA Licenses*									
CMA169	Mayaguez, PR	WZ-CMA169-C	C	710-716, 740-746	12	227,412	14,000	\$14,000	\$27,000
CMA202	Arecibo, PR	WZ-CMA202-C	C	710-716, 740-746	12	199,750	12,000	\$12,000	\$24,000
CMA723	Puerto Rico 1 - Rincon	WZ-CMA723-C	C	710-716, 740-746	12	14,767	1,000	\$1,000	\$1,800
CMA727	Puerto Rico 5 - Ceiba	WZ-CMA727-C	C	710-716, 740-746	12	41,757	2,500	\$2,500	\$5,000
CMA729	Puerto Rico 7 - Culebra	WZ-CMA729-C	C	710-716, 740-746	12	1,868	1,000	\$1,000	\$1,000

AUCTION TOTAL

5 Licenses

30,500

\$30,500

\$58,800

- * The Cellular Market Areas (CMAs) were created from the Metropolitan Statistical Areas (MSAs) defined by the Office of Management and Budget (CMA001-CMA305), the Gulf of Mexico (CMA306), and Rural Service Areas (RSAs) established by the FCC (CMA307-CMA734). The CMA designation, not MSA/RSA, is used in the FCC Integrated Spectrum Auction System and in the Universal Licensing System.

VII. ATTACHMENT B

INCUMBENT CDBS Record Listing for DTV CHANNELS 53-55 AND 58-60 AS OF 3/10/05

Channel	State	City	Call Sign	Facility ID	Name	ARN	Status	Service
53	PR	ARECIBO	WCCV-TV	3001	ASOCIACION EVANGELISTICA CRISTO VIENE INC.	19991101AGR	CP	DT
54	PR	YAUCO	W54AQ	42151	ASOCIACION EVANGELISTICA CRISTO VIENE INC.	198904171Q	LIC	TX
54	PR	ARECIBO	WCCV-TV	3001	ASOCIACION EVANGELISTICA CRISTO VIENE INC.	19950719KH	LIC	TV
55	PR	SAN JUAN	WIPR-TV	53859	PUERTO RICO PUBLIC BROADCASTING CORP.	20000426ABF	CP	DT
58	PR	CAGUAS	WUJA	8156	CAGUAS EDUCATIONAL TV, INC.	19851107KE	LIC	TV
58	PR	MAYAGUEZ	W34CI	71730	WESTERN BROADCASTING CORP. OF PUERTO RICO	JG0601UA	CP	TX
59	PR	BAYAMON	WDWL	4110	BAYAMON CHRISTIAN NETWORK	20000419ABS	CP	DT
60	PR	SABANA GRANDE	W60AA	71726	WESTERN BROADCASTING CORP. OF PUERTO RICO	1432	LIC	TX
60	PR	ARECIBO	WMEI	26676	HECTOR NEGRONI CARTAGENA	19960415KE	CP MOD	TV
60	PR	ARECIBO	WMEI	26676	HECTOR NEGRONI CARTAGENA	20001220ABS	APP	TV

VIII. ATTACHMENT C

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 60

The FCC will sponsor a one-day seminar for Auction No. 60 applicants. The seminar is free of charge and will provide information about pre-auction procedures, service and auction rules, conduct of the auction, and the FCC Auction System.

Representatives from each company may attend on a reservation basis, first-come first-served until room capacity is filled. The seminar will be held:

Tuesday, May 24, 2005
Federal Communications Commission
445 12th Street, SW Room 2-B516
Washington, DC 20554
Registration 9:30 a.m. - 10:00 a.m.
Seminar 10:00 a.m. - 2:00 p.m.

If hotel accommodations are needed
please contact (888) 225-5322, option two for a list of hotels in the area

To register, complete the form below and
return no later than
Friday, May 20, 2005, by fax to:

FCC Auction 60
Auctions and Spectrum Access Division
1270 Fairfield Road
Gettysburg, PA 17325-7245

FAX: (717) 338-2850
Phone: (717) 338-2888

I/We will attend the Auction No. 60 Seminar, scheduled for Tuesday, May 24, 2005.

Name of attendee: _____

Name of attendee: _____

Company name: _____

Company address: _____

Phone: _____ Fax: _____

IX. ATTACHMENT D

ELECTRONIC FILING AND REVIEW OF THE FCC FORM 175

Applicants must submit their FCC Form 175 applications electronically, via the Internet. **FCC Form 175 applications must be submitted and confirmed by 6:00 p.m. ET on Friday, June 3, 2005.** Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants may make changes to their Form 175 applications multiple times and until the close of the filing window. However, applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission.

A. Logging On

To submit an FCC Form 175 application electronically via the Internet, start your web browser and point it to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location). Once on the FCC Integrated Spectrum Auction System page, applicants may log in to create Form 175 applications using their FRNs and passwords.

B. Application Filing Instructions

The on-line FCC Form 175 requests information needed to determine whether an applicant qualifies to participate in competitive bidding for Commission licenses or construction permits.¹²⁵ Pursuant to Section 1.2105(a), Form 175 must be submitted electronically. The screens comprising Form 175 consist of five series, each requesting five separate types of information: 1) *Applicant Information*; 2) *License Selection*; 3) *Agreements*; 4) *Ownership*; and 5) *Certify and Submit*. In addition, *Summary* screens, a sixth series, appear prior to the *Certify and Submit* screens. The *Summary* screens provide an overview of an applicant's Form 175 that facilitates reviewing and revising specific information, as well as an automated check for certain inconsistencies and omissions in submitted information.

To simplify filling out Form 175, certain initial information applicants provide will be used to determine what additional information is needed. In such circumstances, the applicant's initial information will determine what subsequent screens appear as part of Form 175. For example, a corporate applicant, unlike an individual applicant, must identify a corporate officer or director responsible for the application. If initial information identifies an applicant as an individual, no additional information is needed regarding an additional responsible party. Consequently, in such case, screens requesting information regarding a responsible party will not appear. However, if initial information identifies an applicant as a corporation, subsequent screens in the Form 175 will ask for information regarding the responsible party for the application. Accordingly, at points in the process of filling out Form 175, applicants must provide initial information before they can proceed to subsequent screens.

Applicants should be able to fill out Form 175 by following the instructions below. Additional help in filling out Form 175 can be accessed from Form 175 in two ways: 1) by clicking on the **Help** link in the upper right of any screen, which will open Auction Application Online Filing

¹²⁵ See generally, 47 C.F.R. § 1.2105.

Help; or 2) by clicking on the text of any **Common Question** link appearing on the right side of the screen. The common questions displayed relate to the current screen and vary from screen to screen. In the event the assistance provided by these sources is insufficient, filers should use the contact information provided in the Procedures Public Notice to obtain additional assistance.

1. Applicant Information

The *Applicant Information* screens are the first series of screens in Form 175. In the *Applicant Information* screens, the applicant will provide information regarding the applicant's legal classification, *e.g.*, individual, corporation, etc.; optional information regarding the applicant's status as a minority- or woman-owned business or as a rural telephone company; the applicant's name, which will be the bidder name during the auction, citizenship (or jurisdiction of formation for legal entities) and address; for applicants that are legal entities, *e.g.*, corporations and partnerships, the name and related information regarding the entity's responsible individual; the name and address of a contact person for communicating with the Commission regarding the applicant's Form 175; the names of up to three persons authorized to bid for the applicant in the auction; the applicant's preference for electronic or telephonic bidding; and whether the applicant claims eligibility for certain types of bidding credits.¹²⁶

Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- Applicants must indicate their legal classification before continuing to subsequent screens, because the legal classification will determine which subsequent screens will appear.
- P.O. Boxes may not be used for an applicant's address.
- To simplify filling out Form 175, applicants that have the same address as their contact person can click on the **COPY APPLICANT ADDRESS** button to automatically fill in the contact person's address. P.O. Boxes may not be used for a contact person's address.
- Applicants must identify at least one authorized bidder. Applicants may change their authorized bidders at a later date.
- Any qualified bidder may bid either via the Internet or telephone during the auction. Specifying a preference for electronic or telephonic bidding helps the Commission determine the staff required for telephonic bidding.

2. License Selection

The *License Selection* screens make up the second series of screens in Form 175. In the *License Selection* screens, the applicant will identify the licenses the applicant may wish to bid on during the auction. Applicants are not obligated to bid on all licenses selected; however, applicants will not be able to bid on licenses that they have not selected.¹²⁷

¹²⁶ See generally, 47 C.F.R. § 1.2105(a)(2)(ii)(A), (iii), and (iv).

¹²⁷ See generally, 47 C.F.R. § 1.2105(a)(2)(i).

To participate in an auction, applicants must select at least one license. Until the applicant selects a license, the applicant cannot submit the Form 175. An applicant's license selections cannot be changed after the initial filing window has closed. Therefore, during the initial filing window it is important to carefully review license selections to make sure all the licenses the applicant may wish to bid on have been selected.

The first *License Selection* screen, the *Select Licenses* screen, contains two lists: 1) a list of all licenses on which the applicant may be eligible to bid ("Eligible Licenses"); and 2) a list of all licenses selected by the applicant ("Selected Licenses"). Applicants select licenses by: 1) highlighting the licenses to be selected in the Eligible Licenses list; and then 2) clicking on the **ADD** button to move those licenses to the Selected Licenses list. Applicants can click on the **ADD** button multiple times, so applicants do not need to highlight all the licenses in which they are interested before clicking on the **ADD** button. Licenses can be removed from the list of Selected Licenses by: 1) highlighting the unwanted licenses in Selected Licenses; and then 2) clicking the **REMOVE** button. Applicants can click on the **REMOVE** button multiple times, so applicants do not need to highlight all the unwanted licenses before clicking on the **REMOVE** button.

In either list, applicants can highlight a single license by clicking on it. Applicants can highlight multiple licenses by holding down the control key (Ctrl) and clicking on each license the applicant wants to highlight. Alternatively, if an applicant wants to highlight multiple licenses that appear sequentially in a list, applicants can click on the first license in the sequence and then hold down the shift key while clicking on the last license in the sequence. Finally, applicants can highlight all licenses by clicking on the **SELECT ALL** button.

If the applicant previously has selected licenses, the initial *License Selection* screen will be the *View/Edit License Selections* screen. This screen lists the licenses previously selected for this auction. To select a new license or remove a previously selected license, click the **Edit** icon next to Change Selection at the top-right corner of the list. This will take you to the original *Select Licenses* screen, described above.

3. Agreements

The *Agreements* screens are the third series of screens in Form 175. In the *Agreements* screens, applicants will provide information regarding auction-related agreements subject to disclosure under the Commission's rules.¹²⁸

On the first screen, applicants must state whether the applicant has any agreements that are subject to disclosure under the Commission's rules by responding yes or no to a question asking whether the applicant has entered into partnerships, joint ventures, consortia or other agreements or understandings of any kind relating to the licenses being auctioned, including any such agreement relating to the post-auction market structure. If an applicant answers "No," the applicant will continue with the Ownership series of screens, described below. If the applicant answers "Yes," the applicant will continue with additional *Agreements* screens described here.

In the additional *Agreements* screens, applicants must provide an identifier naming the agreement and identify the parties, other than the applicant, to the agreement. The identifier can briefly describe the agreement or simply name the agreement for reference; however, the identifier for each agreement must be unique.

¹²⁸ See generally, 47 C.F.R. § 1.2105(a)(2) (viii).

Slightly different identifying information is requested in the event the other party to the agreement is an entity or an individual. For either entities or individuals, applicants may provide FCC Registration Numbers (FRN), if available. Providing the FRN helps prevent errors in identification resulting from various parties having similar names or single parties using various names. Providing the party's FRN, if available, is optional.

Up to three parties to the agreement (not including the applicant) can be identified on a single screen. Additional parties can be added by clicking the **ADD MORE PARTIES** button. In the event of an error, the name of a party and its associated FRN can be cleared from the form by clicking on the **RESET** button. After identifying all parties to a particular agreement, click the **FINISH THIS AGREEMENT** button.

The next *Agreements* screen is the *View/Edit Agreements* screen. This screen lists the agreements and parties to each that already have been entered. From this screen, you have the following options:

- Clicking the **Edit** icon or the **Agreements** link to return to the initial *Agreements* screen regarding whether or not the applicant has any agreements.
- Modifying agreement identifiers by clicking on them.
- Clicking the **Delete This Agreement** link to delete an agreement and associated parties.
- Modifying information regarding a particular party to an agreement by clicking on the party's name.
- Clicking the **Remove** icon next to information about a particular party to remove the corresponding party.
- Clicking the **Add Party to This Agreement** link to add a new party to an agreement.
- Clicking the **CREATE NEW AGREEMENT** button to add additional agreements.

When you have identified all agreements and the parties to each, click the **CONTINUE** button.

4. Ownership

The *Ownership* screens are the fourth series of screens in the Form 175. In the *Ownership* screens, applicants will provide information regarding parties with ownership interests in the applicant that must be disclosed pursuant to Commission rules.¹²⁹ In part, Commission rules require the disclosure of FCC-regulated businesses that are owned by the applicant and parties with certain ownership interests in the applicant.¹³⁰ In addition, if the applicant has claimed eligibility for bidding credits based on revenues attributable to the applicant and related parties, the applicant will provide information regarding revenues in the *Ownership* screens.

¹²⁹ See generally, 47 C.F.R. §§ 1.2105(a)(2)(ii)(B), 1.2110 and 1.2112.

¹³⁰ See 47 C.F.R. § 1.2112.

a. Information Already On File with the Commission

To simplify filling out Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with Form 175, will automatically be entered into Form 175. Applicants with ownership information automatically entered into Form 175 will proceed directly to the *View/Edit Ownership* screen described below.

Applicants are responsible for information submitted in Form 175 being complete and accurate. Applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for submitting Form 175. Applicants can update the information directly in the Form 175. After the deadline for filing Form 175, ownership information in a submitted Form 175 will be considered to be the applicant's most current ownership information on file with the Commission.

b. Disclosable Interest Holders and FCC-Regulated Businesses

For an applicant not claiming eligibility for bidding credits based on revenues, the initial *Ownership* screen that appears will enable the applicant to: 1) add information regarding a disclosable interest holder; 2) add information regarding the FCC-regulated businesses owned by the applicant; or 3) upload ownership information from a file prepared by the applicant. Section 1.2112(a) of the Commission's rules lists the interest holders in the applicant that must be disclosed in Form 175.¹³¹ Section 1.2112(a)(7) states the FCC-regulated businesses that must be disclosed in Form 175.

Uploading information from a file prepared by the applicant is an alternative to keying information into particular screens comprising the *Ownership* screens in Form 175. Applicants submitting Ownership Disclosure Information have the option to upload ownership data in a text file, which will then be processed and populated into the system as the applicant's current ownership filing (provided there were no errors). This feature may benefit those applicants who have a large amount of ownership data that would otherwise have to be entered into the system manually. It also may benefit those applicants who previously provided ownership data to the FCC in a similar format for other purposes, such as in connection with filing FCC Form 602. Instructions on how to prepare such a file are provided at the end of the instructions regarding *Ownership* screens. After a successful upload, the *Upload Ownership Disclosure Information Confirmation* screen will appear. Applicants then may click the **CONTINUE** button, which loads the *View/Edit Ownership* screen described below.

Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- If an application includes one or more disclosable interest holders with an indirect ownership in the applicant,¹³² the application must include an attachment regarding the relationship between the indirect interest holder(s) and the applicant. The attachment should provide an overview of the ownership chain that links the indirect owners to the applicant, *e.g.*, indirect owner X owns 50% of holding company Y; indirect owner Z owns 50% of holding company Y; and holding company Y owns 100% of the

¹³¹ 47 C.F.R. § 1.2112(a).

¹³² See 47 C.F.R. § 1.2112(a)(6).

applicant.¹³³ One attachment connecting all indirect owners to the applicant is sufficient; a separate attachment for each indirect owner is not required. An overview of the ownership connections is sufficient; the attachment does not need to duplicate all the detailed information already provided in the Form 175.

- The “Percent of Interest Held in Applicant” should reflect the disclosable interest holder’s aggregate ownership interest in the applicant. In some cases, *e.g.*, circumstances where there is joint ownership or indirect ownership resulting in different owners sharing the same ownership interests, the sum of all the percentages held by disclosable interest holders may exceed 100%. In other cases, *e.g.*, directors and officers of an entity seeking revenue-based bidding credits,¹³⁴ a disclosable interest holder may have a 0% percent of interest held in the applicant.
- FCC-regulated businesses in which the applicant has an interest can be entered from the initial *Add Ownership Disclosure Information* screen. FCC-regulated businesses in which a disclosable interest holder has an interest can be entered from the *Add FCC Regulated Business* screen in the series of screens for entering information about a Disclosable Interest Holder.
- When adding an FCC-regulated business, “Percent of Interest Held” refers to the percent of interest held by the applicant or disclosable interest holder, as applicable, in the FCC-regulated business.
- To simplify filling out Form 175, applicants can click on the **select business(es) already submitted** link when entering an FCC-regulated business previously entered as an FCC-regulated business for the applicant or another Disclosable Interest Holder. When doing so, be certain to enter the “Percent of Interest Held” in the FCC regulated business by the current party, either the applicant or the disclosable interest holder, with respect to which the FCC-regulated business is being entered.

c. View/Edit Ownership Disclosure Information

The *View/Edit Ownership Disclosure Information* screen summarizes Ownership information already entered in Form 175, either automatically from compatible ownership information on file with the Commission or directly by the applicant, and provides links enabling existing information to be revised and additional information to be added.

Existing ownership information is divided into three groups:

- Disclosable Interest Holders of this Applicant
- FCC Regulated Businesses of this Applicant
- Affiliates of this Applicant

To view the detailed information submitted regarding the applicant, a disclosable interest holder, FCC-regulated business, or an affiliate, click on the relevant party’s name. To delete existing

¹³³ *Id.*

¹³⁴ See 47 C.F.R. § 1.2112(b)(1)(i).

information or add a new entry in one of the categories, click on the relevant link. This screen also provides a link enabling applicants to add an FCC-regulated business directly to an existing disclosable interest holder, without needing to reenter the disclosable interest holder's information.

d. Bidding Credit Revenue Information

If the applicant has claimed eligibility for bidding credits based on revenues attributable to the applicant and related parties, the first *Ownership* screen will request relevant information regarding the applicant's revenues. The subsequent screen will request which of the two sources of financial information authorized by Section 1.2110 (n) the applicant used for the revenue information.¹³⁵

Applicants claiming eligibility for bidding credits based on revenues are required to provide revenue information separately and in the aggregate for the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests. In addition, if the applicant is consortium of small businesses, the information must be provided with respect to each member comprising the consortium.¹³⁶ The Commission's definition of an affiliate of the applicant encompasses both controlling interests of the applicant and affiliates of controlling interests of the applicant.¹³⁷ Form 175 screens request information regarding the applicant, disclosable interest holders, and affiliates of the applicant. Accordingly, information that Commission rules require be disclosed regarding controlling interests and affiliates of controlling interests that are not disclosable interest holders should be disclosed in screens requesting information regarding affiliates of the applicant.

Following the first two screens, the subsequent screen will be similar to the initial *Ownership* screen described above, with one addition. In addition to being able to add disclosable interest holders and FCC-regulated business, applicants that claim eligibility for bidding credits based on revenues also will have an option to add information regarding affiliates, including their revenues, that are not disclosable interest holders.¹³⁸

Applicants that claim eligibility based on revenues attributable to the applicant and related parties will be requested to provide revenue information for each disclosable interest holder. With respect to disclosable interest holders that are affiliates or controlling interests of the applicant, applicants will fill out two screens similar to the two described above with respect to the applicant, *i.e.*, one screen requesting the relevant information and a second screen regarding the source of the revenue information.

However, not all disclosable interest holders that must be listed in Form 175 pursuant to Section 1.2112(a) are affiliates of the applicant, controlling interests of the applicant, or affiliates of the applicant's controlling interests.¹³⁹ Consequently, applicants claiming eligibility for bidding

¹³⁵ 47 C.F.R. § 1.2110(n).

¹³⁶ See 47 C.F.R. § 1.2112(b)(1)(iii).

¹³⁷ See 47 C.F.R. § 1.2110(c)(5).

¹³⁸ See 47 C.F.R. § 1.2112(b)(1)(iii).

¹³⁹ Compare 47 C.F.R. 1.2110(c)(2) (definition of controlling interests) and (c)(5)(definition of affiliate) with 47 C.F.R. 1.2112(a) (describing disclosable interest holders).

credits based on revenues may not need to provide revenue information for every disclosable interest holder. Accordingly, applicants may indicate that no revenue information is required with respect to the relevant disclosable interest holder on the first screen requesting revenue information for that disclosable interest holder. To do so, check the box indicating that the disclosable interest holder is **not** an affiliate or a controlling interest within the meaning of the Commission's rules and, therefore, no revenue information for the disclosable interest holder will be provided.

In addition, an applicant may have affiliates that are not disclosable interest holders. To disclose information regarding such affiliates and their revenues required pursuant to Commission rule,¹⁴⁰ applicants can click on the **ADD AFFILIATE** button on the initial *Ownership* screen. Applicants also can click on the **Add Affiliate to Applicant** link on the *View/Edit Ownership Disclosure Information* screen to disclose information regarding affiliates and their revenues.

Applicants providing information regarding an affiliate must provide the name of the affiliate and the affiliate's principal business. To simplify filling out Form 175, applicants can click on the **select business(es) already submitted** link when entering an affiliate that previously was entered as an FCC-regulated business for the applicant or a Disclosable Interest Holder. Applicants will fill out two screens similar to the two described above with respect to the affiliate, *i.e.*, one screen requesting the relevant information and a second screen regarding the source of the revenue information.

Finally, applicants claiming eligibility for bidding credits based on revenues attributable to the applicant and related parties will be asked to confirm that they have provided information with respect to all of the relevant parties, *i.e.*, the applicant; each of the applicant's officers and directors; each of the applicant's other controlling interests; each of the applicant's affiliates; and for each affiliate of the applicant's controlling interests, including its officers and directors.¹⁴¹

e. Uploading Ownership Disclosure Data in ISAS

Applicants submitting Ownership Disclosure Information have the option to upload ownership data in a text file, which will then be processed and populated into the system as the applicant's current ownership filing (provided there were no errors). This feature may benefit those applicants who have a large amount of ownership data that would otherwise have to be entered into the system manually. It also may benefit those applicants who previously provided ownership data to the FCC in a similar format for other purposes, such as in connection with filing FCC Form 602.

To use the upload feature, a text (.txt) file must be created that contains a row for each type of entity that is being uploaded. For example, a file might contain a row with data for a Disclosable Interest Holder (DIH), another row for a FCC-Regulated Business (FRB), another row for an affiliate, and so on.

Instructions detailing what must be included for each entity are listed below, starting in *FCC-Regulated Business Record Data*. It is important to note that when a file is successfully uploaded, it will become the current ownership filing on file with the FCC.

¹⁴⁰ See 47 C.F.R. § 1.2112(b)(1)(iii).

¹⁴¹ *Id.*

- **Entity Types**

To upload ownership data, a record (row) must be created for each entity that will be included in the ownership file. A record may be created for the following entity types:

- Disclosable Interest Holder (DIH)
- FCC-Regulated Business (FRB)
- FCC-Regulated Business of Disclosable Interest Holder
- Affiliate.

- **File Format**

To use the upload feature in Ownership, a text file must be created using, for example, Windows Notepad. Data for each entity record must be entered in the order listed, so the system can process it properly. For each entity type, enter data for each column, separating each column of data with a “pipe” (“|”) character. If data is to be omitted, the pipe character must be still be added as a data place holder. For example, if you are not entering an FRN for the entity, type “|” to represent the position of the missing data. Begin each record on a new line.

The following example represents the data requested to add a FCC-Regulated Business entity:

Position	Data Element	Data Type
1*	Record Type	char(1)
2	File Number	char(14)
3	Business Name	varchar(200)
4	Principal Business	varchar(60)
5	FRN	numeric(10)
6	Percent of Interest	numeric(5,2)
7	Form Number	char(3)
8	Filing Type	char(1)
9	Filing Status	char(1)
10	Unique System Identifier	numeric(9,0)

Position	Position indicates the order in which data must be entered. Use a pipe symbol () as a separator following each position, excluding the last position.
*/**	A single asterisk (*) indicates that this data is required for the current record (row).
	A double asterisk (**) indicates mutually-exclusive required data (e.g., enter either a first name/last name combination for an individual or an entity name for a business).
Data	Data represents the type of data that is being provided.

Data Type	<p>Data type represents the kind of data the column may contain (e.g., only numeric data allowed in the FRN column) and the maximum length of the value or its size.</p> <p><i>Char(x)</i> indicates character data (<i>x</i> represents the maximum number of characters allowed).</p> <p><i>Numeric(x)</i> represents numeric data (<i>x</i> represents the precision).</p> <p><i>Numeric(x, y)</i> represents numeric data (<i>x</i> represents the precision (specifies the number of digits in a number), <i>y</i> represents the scale (specifies the number of digits to the right of the decimal point in a number)).</p> <p><i>Varchar(x)</i> indicates character data (<i>x</i> represents the maximum length of the value or its size).</p> <p><i>Money</i> represents a monetary value using two decimal places.</p>
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Example record for an FCC-Regulated Business:

F|World Wide Wireless, Inc.|PCS Wireless|0007522890|44|||

○ **Record Types for Upload Files**

FCC-Regulated Business (FRB) Record Data

Position	Data Element	Data Type
1*	Record Type	char(1)
2	File Number	char(14)
3*	Business Name	varchar(200)
4*	Principal Business	varchar(60)
5	FRN	numeric(10)
6*	Percent of Interest	numeric(5,2)
7	Form Number	char(3)
8	Filing Type	char(1)
9	Filing Status	char(1)
10	Unique System Identifier	numeric(9,0)

Notes:

Position/Data Element	Note
1 Record Type	Use "F" as the value for a FRB record.
2 File Number	Not required. Enter a pipe " " to replace the omitted value.
7 Form Number	Not required. Enter a pipe " " to replace the omitted value.
8 Filing Type	Not required. Enter a pipe " " to replace the omitted value.
9 Filing Status	Not required. Enter a pipe " " to replace the omitted value.
10 Unique System Identifier	Not required. Enter a pipe " " to replace the omitted value.

FCC-Regulated Business (FRB) of Disclosable Interest Holder (DIH) Record Data

Position	Data Element	Data Type
1*	Record Type	char(1)
2	File Number	char(14)
3*	Business Name	varchar(200)
4*	Principle Business	varchar(60)
5	FRN	numeric(10)
6	DIH FRN	numeric(10)
7*	Percent of Interest	numeric(5,2)
8	Form Number	char(3)
9	Filing Type	char(1)
10	Filing Status	char(1)
11	Unique System Identifier	numeric(9,0)

Notes:

Position/Data Element	Note
1 Record Type	Use “H” as the value for a DIH FRB record.
2 File Number	Not required. Enter a pipe “ ” to replace the omitted value.
8 Form Number	Not required. Enter a pipe “ ” to replace the omitted value.
9 Filing Type	Not required. Enter a pipe “ ” to replace the omitted value.
10 Filing Status	Not required. Enter a pipe “ ” to replace the omitted value.
11 Unique System Identifier	Not required. Enter a pipe “ ” to replace the omitted value.

Disclosable Interest Holder (DIH) Record Data

Position	Data Element	Data Type
1*	Record Type	char(1)
2	File Number	char(14)
3**	Entity Name	varchar(200)
4*	Entity Type	char(1)
5**	First Name	varchar(20)
6	MI	char(1)
7**	Last Name	varchar(20)
8	Suffix	char(3)
9	FRN	numeric(10)
10	Address	varchar(60)
11	Address2	varchar(60)
12	City	varchar(20)
13	State	char(2)
14	Zip Code	char(9)
15	Country	char(2)
16	International Address_ind	char(1)
17	Interest Direct	char(1)
18	Interest Indirect	char(1)
19	Interest Officer	char(1)
20	Interest Director	char(1)

Position	Data Element	Data Type
21	Interest Key Management	char(1)
22	Interest Management Contract	char(1)
23	Interest Other	char(1)
24	Interest Other Description	char(255)
25	Owner Common Stock	char(1)
26	Owner Common Stock Vote Indicator	char(1)
27	Owner General Partnership	char(1)
28	Owner General Partnership Vote Indicator	char(1)
29	Owner Limited Partnership	char(1)
30	Owner Limited Partnership Vote Indicator	char(1)
31	Owner Member	char(1)
32	Owner Option	char(1)
33	Owner Proprietor	char(1)
34	Owner Preferred Stock	char(1)
35	Owner Preferred Stock Vote Indicator	char(1)
36	Owner Preferred Stock Convert Indicator	char(1)
37	Owner Warrant	char(1)
38	Owner Other Type of Interest	char(1)
39	Owner Other Type of Interest Description	char(255)
40	Percent of Interest	numeric(5,2)
41	Country of Citizenship	char(2)
42	Jurisdiction of Formation	char(2)
43	State of Jurisdiction	char(2)
44	Non Affiliate Option	char(1)
45	Year1 in Existence	char(1)
46	Year1 End Date	char(10)
47	Year1 Revenue	numeric(18)
48	Year2 in Existence	char(1)
49	Year2 End Date	char(10)
50	Year2 Revenue	numeric(18)
51	Year3 in Existence	char(1)
52	Year3 End Date	char(10)
53	Year3 Revenue	numeric(18)
54	Total Assets	money
55	Financial Statement Type	char(1)
56	Form Number	char(3)
57	Filing Type	char(1)
58	Filing Status	char(1)
59	Unique System Identifier	numeric(9,0)

Notes:

Position/Data Element	Note
1 Record Type	Use “D” as the value for a DIH record.
2 File Number	Not required. Enter a pipe “ ” to replace the omitted value.
3 Entity Name/5 First Name/7 Last Name	If the DIH is an entity, enter the Entity Name If the DIH is an individual, enter the First Name and Last Name.

Position/Data Element	Note
4 Entity Type	If the DIH is an entity, use “E” as the value. If the DIH is an individual, use “I” as the value.
56 Form Number	Not required. Enter a pipe “ ” to replace the omitted value.
57 Filing Type	Not required. Enter a pipe “ ” to replace the omitted value.
58 Filing Status	Not required. Enter a pipe “ ” to replace the omitted value.
59 Unique System Identifier	Not required. Enter a pipe “ ” to replace the omitted value.

Affiliate Record Data

Position	Data Element	Data Type
1*	Record Type	char(1)
2	File Number	char(10)
3*	Individual Entity Type	char(1)
4**	First Name	varchar(20)
5	MI	char(1)
6**	Last Name	varchar(20)
7	Suffix	char(3)
8**	Entity Name	varchar(200)
9	Principal Business	varchar(60)
10	FRN	numeric(10)
11	Year1 in Existence	char(1)
12	Year1 End Date	char(10)
13	Year1 Revenue	numeric(18)
14	Year2 in Existence	char(1)
15	Year2 End Date	char(10)
16	Year2 Revenue	numeric(18)
17	Year3 in Existence	char(1)
18	Year3 End Date	char(10)
19	Year3 Revenue	numeric(18)
20	Total Assets	money
21	Financial Statement Type	char(1)
22	Form Number	char(3)
23	Filing Type	char(1)
24	Filing Status	char(1)
25	Unique System Identifier	numeric(9,0)

Notes:

Position/Data Element	Note
1 Record Type	Use “A” as the value for an Affiliate record.
2 File Number	Not required. Enter a pipe “ ” to replace the omitted value.
3 Individual Entity Type	If the Affiliate is an entity, use “E” as the value. If the Affiliate is an individual, use “I” as the value.
4 First Name/6 Last Name/8 Entity Name	If Affiliate is an individual, enter the First Name and Last Name. If Affiliate is an entity, enter the Entity Name.
22 Form Number	Not required. Enter a pipe “ ” to replace the omitted value.
23 Filing Type	Not required. Enter a pipe “ ” to replace the omitted value.
24 Filing Status	Not required. Enter a pipe “ ” to replace the omitted value.

Position/Data Element	Note
25 Unique System Identifier	Not required. Enter a pipe “ ” to replace the omitted value.

○ Procedure to Upload Ownership Disclosure Information

After creating the ownership upload file and saving it as a .txt file, it may be uploaded from the *Upload Ownership Disclosure Information* screen. Ownership data must be uploaded in one file. A successful upload will become the current ownership data on file with the FCC. You may not make changes to your Ownership Disclosure data nor submit your auction application until the processing of your upload file has completed. You may navigate to other sections of your online auction application during the processing. To begin the upload process:

1. Enter the exact path name of the file to be uploaded or click the **BROWSE** button to locate the file on your computer. Click **BROWSE** opens a window from which you can locate and select the file. After selecting the file, click the **OPEN** button.
2. Type an e-mail address to which a confirmation notice will be sent, then re-type the address in the confirmation box.
3. Click the **UPLOAD FILE** button.

The system will process the file and populate the system with the data, provided there were no processing errors. If there is an error, an error message will be displayed on the screen. If the file is successfully uploaded, the ownership data will be viewable on the *View/Edit Ownership Disclosure Information* screen. It may be viewed and/or edited just as if it had been entered manually.

5. Summary

The *Summary* screens, the next series of screens that appear if an applicant continues from the *Ownership* screens, are the fifth series of screens in Form 175. The *Summary* screens summarize information applicants have provided in previous screens, offering an overview of an applicant's Form 175 to help you locate specific information. The *Summary* screens will appear prior to the *Certify and Submit* screens, in order to permit the applicant to review all the information entered in previous screens and an opportunity to check for errors in the information submitted.

The first *Summary* screen, the *Summary Overview* screen, lists the first four series of screens in the application and provides a **VIEW/EDIT** button to access each one. Here is what happens if you click **VIEW/EDIT** for each series:

- Clicking **VIEW/EDIT** for Applicant Information produces a *Detail for Applicant Information* screen showing what you entered for each data entry field. To change any data item, click the **Edit** icon for the relevant data field.
- Clicking **VIEW/EDIT** for License Selection takes you to the *View/Edit License Selection* screen discussed above in the License Selection section.
- Clicking **VIEW/EDIT** for Agreements takes you to the *View/Edit Agreements* screen discussed above in the Agreements section.
- Clicking **VIEW/EDIT** for Ownership takes you to the *View/Edit Ownership Disclosure Information* screen discussed above in the Ownership section.

Clicking on the **CHECK ERRORS** button initiates an automated check of the application. If the automated check encounters any errors that must be corrected before submitting the application, the error(s) will be listed in an Error box at the top of the screen. To correct one of these errors, click its corresponding **EDIT** button. In addition, if the automated check encounters any apparent errors that might render the application incomplete if the application is submitted with current information, the apparent error will be listed in a Warning box. To revise the information related to the apparent error, click its corresponding **EDIT** button.

Applicants are solely responsible for providing complete and accurate information in Form 175. The automated check is provided to assist applicants in completing Form 175. However, the automated check cannot be relied upon to determine whether the information provided in the Form 175 is complete or accurate; the automated check may not catch all errors or apparent errors and applicants cannot rely on the automated check to determine the completeness or the accuracy of submitted information.

If the automated check does not encounter any errors, a box will appear displaying the message “**No Errors found - You may continue to Certify and Submit.**” Applicants may then click the **CONTINUE TO CERTIFY** button.

6. Certify and Submit

The *Certify and Submit* screens are the sixth and final series of screens in Form 175. In the *Certify and Submit* screens, applicants will provide certifications required of all participants in the Commission’s competitive bidding.¹⁴²

The first *Certify and Submit* screen requires applicants to indicate whether they, their affiliates, their controlling interests, and any affiliates of their controlling interests have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency.¹⁴³ Applicants associated with a relevant entity that has been in default or delinquent may participate in an auction, if otherwise qualified. However, such applicants must submit an upfront payment equal to 50 percent more than otherwise required.¹⁴⁴

The second *Certify and Submit* screen lists the certifications required of all applicants in the Commission’s competitive bidding and requests that the applicant’s certifying official be identified and sign the application.

Once the two *Certify and Submit* screens have been filled out, the application may be submitted by clicking on the **SUBMIT** button.

After the application has been submitted, a confirmation screen will be displayed that states the submission time and date, along with a unique file number.

¹⁴² See generally, 47 C.F.R. § 1.2105(a)(2) (iv)-(vii) and (ix)-(xi).

¹⁴³ See 47 C.F.R. § 1.2105(a)(2)(xi).

¹⁴⁴ See 47 C.F.R. § 1.2106(a).

7. Attaching Additional Information

If an applicant needs to provide additional information not requested directly in the screens comprising the Form 175, additional information can be provided in an attachment.

The screen for adding an attachment to Form 175 can be accessed by clicking on the **Attachments** link in the upper right of any screen. The *Add Attachment* screen requests information regarding the type of attachment to be added, the name of the file to be attached, and a brief description of the attachment. If the attachment is a request for a waiver of any of the Commission's rules or procedures, the applicant should identify the "Type" of attachment as a "Waiver" to facilitate prompt processing. Once the requested information is provided, applicants can add the attachment to the application by clicking on the **ADD ATTACHMENT** button.

A list of any attachments already uploaded along with the applicant's Form 175 appears at the bottom of the screen.

When uploading attachments, applicants may use a variety of file formats-- including Word 2000 or earlier, WordPerfect 6.x or earlier, Adobe PDF, and ASCII text--and must verify that the files contain all exhibit information. Files may be no larger than 1.5 Mb. Graphics files (e.g., .bmp, .tiff, .jpg) and spreadsheets (e.g., Excel, Lotus) are not supported, and word processing files that are uploaded may not contain graphic images. Files must not be password-protected.

8. Updating Previously Submitted Information in the Form 175

Applicants must go to the *Certify and Submit* screens and click the **SUBMIT** button to submit any changes made to their Form 175.

Application Review

Once the FCC has completed the 175 Application Review process, you can view FCC Form 175 applications electronically by searching for them in the FCC database. Start your web browser and point it to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location). Click the **Auction Applications** link in the Public Access area on the FCC Integrated Spectrum Auction System page to start your search.

Software Requirements

Applicants are reminded to meet the following minimum software requirements:

- Web Browser, either of the following:
 - Microsoft® Internet Explorer 6.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.4.1_02 installed.
 - Netscape® Communicator™ 6.0 or higher, with Java Plug-In Version 1.4.1_02.

Java Plug-In Version 1.4.1_02 is available for downloading at http://java.sun.com/products/archive/j2se/1.4.1_02/index.html (choose the JRE version).

- PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)

Technical Support

For technical assistance with using FCC software, contact the FCC Technical Support Hotline at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY). The FCC Technical Support Hotline is available Monday through Friday from 8 a.m. to 6 p.m. ET. *All calls to the FCC Technical Support Hotline are recorded.*

FCC Technical Support can also be contacted electronically by filling out a help request form at <https://esupport.fcc.gov/request.htm>.

X. ATTACHMENT E

AUCTION-SPECIFIC INSTRUCTIONS FOR FCC REMITTANCE ADVICE (FCC FORM 159-February 2003 Edition)

A. Upfront Payments

The following information supplements the standard instructions for FCC Form 159 (Revised 2/03), and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction No. 60. Applicants need to complete FCC Form 159 carefully, since:

- **Mistakes may affect bidding eligibility; and**
- **Lack of consistency between information set forth in FCC Form 159 (Revised 2/03), FCC Form 175, long-form application, and correspondence about an application may cause processing delays.**

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 Short Form Application are described below:

Block Number	Required Information
1	LOCKBOX # - Enter "358430"
2	Payer Name - Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same as FCC Form 175.
3	Total Amount Paid - Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/03).
4-8	Street Address, City, State, ZIP Code - Enter the street mailing address (not Post Office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number - Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code - For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN - Enter the payer's ten-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
24A	Payment Type Code - Enter "A60U"

- 25A Quantity - Enter the number “1”
- 26A Fee Due - Amount of Upfront Payment
- 27A Total Fee - Will be the same amount as 26A.
- 28A FCC Code 1 - Enter the number “60” (indicating Auction No. 60).

NOTES:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If applicant is different from the payer, complete blocks 13 through 21 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since credit card payments will not be accepted for this auction, leave Section E blank.

B. Winning Bidder Requirements, Down Payments and Final Payments

Specific information regarding down payments and final payments will be included in a post-auction public notice announcing the winning bidders.

XI. ATTACHMENT F

SUMMARY LISTING OF COMMISSION AND BUREAU DOCUMENTS ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULE

A. Commission Decisions:

Implementation of Section 309(j) of the Communications Act- Competitive Bidding, PP Docket No. 93-253, FCC 94-61, *Second Report and Order*, 9 FCC Rcd 2348, 2386-2388 ¶¶ 221-226 (1994).

Implementation of Section 309(j) of the Communications Act - Competitive Bidding, *Fifth Report and Order*, PP Docket No. 93-253, 9 FCC Rcd 5532, 5570-5571 ¶¶ 91-92 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Fourth Memorandum Opinion and Order*, PP Docket No. 93-253, 9 FCC Rcd 6858, 6866-6869 ¶¶ 47-60 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Second Memorandum Opinion and Order*, PP Docket No. 93-253, 9 FCC Rcd 7245, 7253-7255 ¶¶ 48-55 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Memorandum Opinion and Order*, PP Docket No. 93-253, 9 FCC Rcd 7684, 7687-7689 ¶¶ 8-12 (1994).

In re Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd 4277 (1995), In re Commercial Realty St. Pete, *Memorandum Opinion and Order*, 11 FCC Rcd 15374 (1996).

In re Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd 17970 (1997); Application of Mercury PCS II, L.P. for Facilities in the Broadband PCS D, E and F Blocks, *Memorandum Opinion and Order*, 13 FCC Rcd. 23755 (1998).

Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 463-469 ¶¶ 155-166 (1997).

In re Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, 13 FCC Rcd 8286 (1998); Notice of Apparent Liability for Forfeiture of US West Communications, Inc., *Order*, FCC 99-90 (May 7, 1999).

In re Application of Western PCS BTA I Corporation, *Notice of Apparent Liability for Forfeiture*, FCC 98-42 (March 16, 1998); Notice of Apparent Liability for Forfeiture of Western PCS BTA I Corporation, *Memorandum Opinion and Order*, 14 FCC Rcd 21571, 21577-78 ¶ 20 (1999).

Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001).

B. Wireless Telecommunications Bureau Decisions:

Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, *Order*, 11 FCC Rcd 9655 (WTB 1995).

In re Applications of GWI PCS, Inc. For Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C, *Memorandum Opinion and Order*, 12 FCC Rcd 6441 (WTB1997).

In re Applications of Mercury PCS II, LLC, For Facilities in the Broadband Personal Communications Services in the D, E, and F Blocks, *Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 18093 (WTB 1997).

Applications of High Plains Wireless, L.P., For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 12 FCC Rcd 19627 (WTB 1997).

Applications of Mercury PCS II, LLC, For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 13 FCC Rcd 5756 (WTB 1997).

1. Public Notices:

Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd 9645 (1995).

FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS 'C' Block Reauction, *Public Notice*, 11 FCC Rcd 7031 (1996).

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, 11 FCC Rcd 10134 (1996).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, DA 98-37 (rel. January 9, 1998).

2. Letters from the Office of General Counsel and the Wireless Telecommunications Bureau:

Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

Letter to Alan F. Ciamporzero from William E Kennard, General Counsel, Federal Communications Commission (released October 25, 1996).

Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 1, 1994).

Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 14, 1994).

Letter to Jonathan D. Blake and Robert J. Rini from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 95-2404 (released November 28, 1995).

Letter to Mark Grady from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 10,895 (1996).

Letter to David L. Nace from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 11,363 (1996).

Letter to Elliott J. Greenwald from Christopher J. Wright, General Counsel, Federal Communications Commission (released April 6, 1998).

Letter to Robert Pettit, Wiley, Rein & Fielding from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, DA 00-2905 (released December 26, 2000).

C. Enforcement Bureau Decisions:

In re Application of Star Wireless, LLC for C Block Facilities in the 710-716 and 740-746 MHz Bands, *Notice of Apparent Liability for Forfeiture*, DA 03-2722 (released August 27, 2003) (recon. pending).

In re Application of Northeast Communications of Wisconsin, Inc. for C Block Facilities in the 710-716 and 740-746 MHz Bands, *Notice of Apparent Liability for Forfeiture*, DA 03-2723 (released August 27, 2003) (recon. pending).

D. Civil Actions Initiated by U.S. Department of Justice:

U.S. v. Omnipoint Corp., Proposed Final Judgments and Competitive Impact Statements, Department of Justice, 63 FR 65,228 (November 25, 1998).

"Justice Department Sues Three Firms Over FCC Auction Practices," *Press Release, U.S. Department of Justice* (November 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. November 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. November 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. November 10, 1998).

How to Obtain Copies of the Anti-Collusion Decisions:

Many of the documents listed in this attachment can be retrieved from the following Commission web site: <http://wireless.fcc.gov/auctions/anticollusion>.

The documents may be located by using our search engine (select the link "search"). Documents retrieved from the web site are available in various formats including Word, WordPerfect,

Acrobat Reader, Excel, and ASCII Text. To review a document in its entirety, including footnotes, it is necessary to access the document in WordPerfect, MS Word, or Acrobat Reader.

Additionally, all of the documents can be ordered in hard copy for a fee from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (800) 378-3160 (telephone) or <http://www.bcpweb.com>.