

from 9 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:**

Jeanette C. Brinkley, Secretary to the Farm Credit Administration Board, (703) 883-4009, TTY (703) 883-4056.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

**SUPPLEMENTARY INFORMATION:** This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

**Open Session**

*A. Approval of Minutes*

—March 11, 2004 (Open and Closed)

*B. Reports*

- Allowance for Loan Losses—Bookletter and Informational Memorandum
- Farm Credit System Performance: A Four-Year Review
- Human Development and Investment Group Update

*C. New Business*

1. Regulations

- Preferred Stock—Draft Proposed Rule
- Other Financing Institution Lending—Draft Final Rule
- Farmer Mac Non-Program Investment and Liquidity—Draft Proposed Rule

2. Other

- Farm Management and Agricultural Trust Services Request

Dated: April 15, 2004.

**Jeanette C. Brinkley,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 04-8976 Filed 4-15-04; 4:49 pm]

**BILLING CODE 6705-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority**

March 23, 2004.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction

Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 21, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all Paperwork Reduction Act (PRA) comments to Les Smith, Federal Communications Commission, 445 12th Street, SW., Room 1-A804, Washington, DC 20554 or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0570.  
*Title:* Section 76.982, Continuation of Rate Agreements.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* State, local, or tribal governments.

*Number of Respondents:* 25.

*Estimated Time per Response:* 0.5 hours.

*Frequency of Response:* One-time reporting requirement.

*Total Annual Burden:* 13 hours.

*Total Annual Cost:* None.

*Privacy Impact Assessment:* No impact.

*Needs and Uses:* Franchise authorities that were regulating basic cable rates pursuant to a rate agreement executed before July 1, 1990, may continue to regulate rates during the remainder of

the agreement. Franchise authorities must notify the FCC of their intentions to continue regulating rates under the rate agreement.

*OMB Control Number:* 3060-0562.

*Title:* Section 76.916, Petition for Recertification.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Businesses or other for-profit entities; and State, local, or tribal governments.

*Number of Respondents:* 10.

*Estimated Time per Response:* 10 hours.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure.

*Total Annual Burden:* 100 hours.

*Total Annual Costs:* None.

*Privacy Impact Assessment:* No impact.

*Needs and Uses:* A franchising authority wishing to assume jurisdiction to regulate basic cable service and associated equipment rates after its request for certification has been denied or revoked, may file a petition for recertification with the FCC. The petition must be served on the cable operator and on any interested party that participated in the proceeding denying or revoking the original certification.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 04-8843 Filed 4-19-04; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[Report No. AUC-04-56-B; DA 04-633]

**Auction of 24 GHz Service Licenses Scheduled for July 28, 2004; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the procedures, minimum opening bids, and revised inventory for the upcoming auction of licenses in the 24 GHz Service in the 24.25-24.45 GHz and 25.05-25.25 GHz bands. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

**DATES:** Auction No. 56 is scheduled to begin on July 28, 2004.

**FOR FURTHER INFORMATION CONTACT:**

*Auctions and Spectrum Access Division:*

For legal questions: Howard Davenport at (202) 418-0660, for general auction questions: Roy Knowles or Barbara Sibert at (717) 338-2888. *Media Contact:* For press inquiries: Lauren Patrich at (202) 418-7944. *Broadband Division:* For legal questions: Nancy Zaczek at (202) 418-2487, for technical questions: Michael Pollak at (202) 418-2487 or Steve Buenzow at (717) 338-2687.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 56 Procedures Public Notice* released on March 12, 2004. The complete text of the *Auction No. 56 Procedures Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Auction No. 56 Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or

via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). This document is also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/56/>.

## I. General Information

### A. Introduction

1. The *Auction No. 56 Procedures Public Notice* announces the procedures and minimum opening bids for the upcoming auction of licenses in the 24 GHz Service in the 24.25-24.45 GHz and 25.05-25.25 GHz bands scheduled for July 28, 2004 (Auction No. 56). On January 30, 2004, in accordance with the Balanced Budget Act of 1997, the Bureau released a public notice seeking comment on reserve prices or minimum opening bids and the procedures to be used in Auction No. 56. The Bureau received no comments in response to the *Auction No. 56 Comment Public Notice*, 69 FR 7219, February 13, 2004.

#### i. Background of Proceeding

2. On August 1, 2000, the Commission released the *24 GHz Report and Order*, 65 FR 59350, October 5, 2000, in which it determined that the 24 GHz band

would be made available for licensing throughout the United States by Economic Areas ("EA"). Stations in the 24 GHz Service may render any kind of digital fixed communications service consistent with the Commission's rules and the regulatory status of the station to provide services on a common carrier or non-common carrier basis. The Commission adopted rules to license the 24 GHz band by EA because EAs not only offer economies of scale, but also serve the needs of a wider range of entities, including both large and small service providers.

#### ii. Licenses To Be Auctioned

3. Auction No. 56 will offer 880 licenses in the 24 GHz Service in the 24.25-24.45 GHz and 25.05-25.25 GHz bands. Five licenses will be offered in each of 172 EAs and four EA-like areas: Guam and Northern Mariana Islands; Puerto Rico and the U.S. Virgin Islands; American Samoa; and the Gulf of Mexico. A complete list of the licenses available in Auction No. 56 is included in Attachment A of the *Auction No. 56 Procedures Public Notice*.

| Channel number    | Channel description                      | Frequency bands                       | Bandwidth (MHz) |
|-------------------|------------------------------------------|---------------------------------------|-----------------|
| EA Licenses       |                                          |                                       |                 |
| 35 .....          | Two paired 40 MHz frequency blocks ..... | 24,250-24,290/25,050-25,090 MHz ..... | 80 MHz.         |
| 36 .....          | Two paired 40 MHz frequency blocks ..... | 24,290-24,330/25,090-25,130 MHz ..... | 80 MHz.         |
| 37 .....          | Two paired 40 MHz frequency blocks ..... | 24,330-24,370/25,130-25,170 MHz ..... | 80 MHz.         |
| 38 .....          | Two paired 40 MHz frequency blocks ..... | 24,370-24,410/25,170-25,210 MHz ..... | 80 MHz.         |
| 39 .....          | Two paired 40 MHz frequency blocks ..... | 24,410-24,450/25,210-25,250 MHz ..... | 80 MHz.         |
| Grand Total ..... | .....                                    | .....                                 | 400 MHz.        |

## B. Rules and Disclaimers

### i. Relevant Authority

4. Prospective applicants must familiarize themselves thoroughly with the Commission's rules relating to the 24 GHz service contained in title 47, part 101, 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 the *Auction No. 56 Procedures Public Notice*; the *Auction No. 56 Comment Public Notice*; *24 GHz Report & Order* and the *24 GHz Reconsideration Order* (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures).

5. 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.

#### ii. Prohibition of Collusion

6. To ensure the competitiveness of the auction process, § 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 § 1.2105(a)(2)(viii). 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. For purposes of this prohibition, § 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form 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.

7. 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. 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.

8. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering the same geographic areas. 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. 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 § 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. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

9. 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. Thus, § 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, § 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 § 1.65.

10. 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.

11. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment G of the *Auction No. 56 Procedures Public Notice*.

#### iii. Interference Protection

12. Among other licensing and technical rules, 24 GHz licensees must comply with the interference protection and coordination requirements set forth in §§ 101.509 of the Commission's rules. Incumbent 24 GHz Service Licensees (formerly Digital Electronic Message Service (DEMS) licensees when they were in the 18 GHz band) authorized to operate in Standard Metropolitan Statistical Areas ("SMSAs") shall retain exclusive rights to their channel(s) within their SMSA and must be protected. 24 GHz service licensees must also protect neighboring licensees. New EA licensees are encouraged to develop sharing agreements with these incumbents and other new EA licensees along the boundaries of their areas. Potential bidders seeking licenses for EAs that border Canada or Mexico are subject to coordination arrangements with those respective countries.

#### iv. Due Diligence

13. Potential applicants are reminded that there are a number of incumbent 24 GHz Service licensees operating on 24.25–24.45 GHz and 25.05–25.25 GHz bands that are subject to the upcoming auction. Incumbent licenses were originally granted in 1997 in 102 SMSAs. Incumbent systems are entitled to protection as specified under § 101.509 of the Commission's rules from co-channel interference by any new entrant who obtains a 24 GHz EA license at the auction. We therefore caution potential bidders in formulating their bidding strategies to investigate and consider the extent to which 24

GHz channels are occupied by incumbents. We note that the power flux density listed in subparagraph (e) under § 101.509 should read "–114" instead of "–14."

14. Potential 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. 56.

15. Potential applicants also should be aware that certain 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, incumbent licensees, or the licenses available in Auction No. 56. In addition, certain judicial proceedings that may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 56, may be commenced, or may be pending, or may be subject to further review. We note that resolution of these matters could have an impact on the availability of spectrum in Auction No. 56. In addition, although the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

16. In addition, potential applicants may research the licensing database for the Wireless Telecommunications Bureau on the Internet in order to determine which frequencies are already licensed to incumbent licensees. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential applicants are strongly encouraged to physically inspect any sites located in, or near, the service area for which they plan to bid.

17. Potential bidders may obtain information about licenses available in Auction No. 56 through the Wireless Telecommunications Bureau's licensing database on the World Wide Web at <http://wireless.fcc.gov/uls>. Potential applicants may query the database online and download a copy of their search results if desired. Detailed instructions on using License Search (including frequency searches and the

GeoSearch capability) and downloading query results are available online by selecting the “?” button at the upper right-hand corner of the License Search screen.

18. Potential applicants should direct questions regarding the search capabilities to the FCC Technical Support hotline at (202) 414-1250 (voice) or (202) 414-1255 (TTY), or via e-mail at [ulscomm@fcc.gov](mailto:ulscomm@fcc.gov).

#### v. Bidder Alerts

19. 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.

20. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 56 to deceive and defraud unsuspecting investors.

21. 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. 56 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

#### vi. National Environmental Policy Act Requirements

22. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (“NEPA”). 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.

#### C. Auction Specifics

##### i. Auction Date

23. The auction will begin on Wednesday, July 28, 2004. 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 until bidding has stopped on all licenses.

##### ii. Auction Title

24. Auction No. 56—24 GHz Service.

##### iii. Bidding Methodology

25. The bidding methodology for Auction No. 56 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically.

##### iv. Pre-Auction Dates and Deadlines

26. The following is a list of important dates related to Auction No. 56:

Auction Seminar—May 25, 2004.

Short-Form Application (FCC Form 175) Filing Window Opens—May 25, 2004; 12 p.m. e.t.

Short-Form Application (FCC Form 175) Filing Window Deadline—June 4, 2004; 6 p.m. e.t.

Upfront Payments (via wire transfer)—June 29, 2004; 6 p.m. e.t.

Mock Auction—July 23, 2004.

Auction Begins—July 28, 2004.

##### v. Requirements for Participation

27. Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6 p.m. e.t., June 4, 2004.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. e.t., June 29, 2004.
- Comply with all provisions outlined in the *Auction No. 56 Procedures Public Notice*.

##### vi. General Contact Information

28. The following is a list of general contact information related to Auction No. 56:

#### 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 a.m.–5:30 p.m. e.t., Monday through Friday

#### Auction Legal Information

Auction Rules, Policies, Regulations  
Auctions and Spectrum Access  
Division, Legal Branch (202) 418-0660

#### Licensing Information

Rules, Policies, Regulations  
Licensing Issues  
Due Diligence  
Incumbency Issues  
Broadband Division, (202) 418-2487

#### Technical Support

Electronic Filing  
FCC Automated Auction System  
FCC Auctions Technical Support  
Hotline, (202) 414-1250, (202) 414-1255 (TTY), Hours of service: 8 a.m.–6 p.m. e.t., 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

#### 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) Application Requirements

29. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 56 Procedures Public Notice*.

##### A. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

30. All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to file an “Exhibit A” providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

##### B. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

31. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any 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. Applicants will also be required to certify on their short-form applications that they have not 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.

32. 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. 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.

### C. Eligibility

#### i. Bidding Credit Eligibility (FCC Form 175 Exhibit C)

33. 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.

34. In the *24 GHz Report and Order*, the Commission adopted bidding credits to promote and facilitate the participation of small businesses in the competitive bidding for licenses in the 24 GHz service. For Auction No. 56, bidding credits will be available to small businesses or consortia thereof, as follows:

- A bidder with attributed average annual gross revenues of not more than \$40 million for the preceding three

years ("entrepreneur") will receive a 15 percent discount on its winning bids;

- A bidder with attributed average annual gross revenues of not more than \$15 million for the preceding three years ("small business") will receive a 25 percent discount on its winning bids;

- A bidder with attributed average annual gross revenues of not more than \$3 million for the preceding three years ("very small business") will receive a 35 percent discount on its winning bids.

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

36. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit. *See* section V.F. of the *Auction No. 56 Procedures Public Notice*.

37. *Attribution for entrepreneur, small business, and very small business eligibility.* In determining which entities qualify as entrepreneurs, small businesses, or very small businesses, 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.

38. Each member of a consortium of entrepreneurs, small businesses or very small businesses must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests.

#### ii. Supporting Documentation

39. Applicants should note that they will be required to file supporting documentation to their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as entrepreneur, small business, or very small business (or consortia of entrepreneurs, small businesses, or very small businesses) for this auction.

40. 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 its

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.

41. *Entrepreneur, small business, or very small business eligibility (Exhibit C).* Entities applying to bid as entrepreneurs, small businesses, or very small businesses (or consortia of entrepreneurs, small businesses, or very small businesses) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate*, the gross revenues for the preceding three years of each of the following: (i) The applicant, (ii) its affiliates, (iii) its controlling interests, and (iv) 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. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, a schedule of gross revenues for *each* of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of entrepreneurs, small businesses, or very small businesses, this information must be provided for each consortium member.

#### C. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit D)

42. Each applicant must certify on its FCC Form 175 application under penalty of perjury that the applicant, its controlling interests, its affiliates, and the affiliates of its controlling interests, as defined by § 1.2110, are not in default on any payment for Commission licenses (including down payments) and not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interests, as defined by § 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. Applicants must include this statement as Exhibit D of the FCC Form 175.

43. "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. 56, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

#### D. Installment Payments

44. Installment payment plans will not be available in Auction No. 56.

#### E. Other Information (FCC Form 175 Exhibits E and F)

45. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(c)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions. Applicants wishing to submit additional information may do so on Exhibit F.

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

46. After the short-form filing deadline (6 p.m. e.t. June 4, 2004), applicants may make only minor changes 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 credits). See 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants must make these modifications to their FCC Form 175 electronically and 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: [auction56@fcc.gov](mailto:auction56@fcc.gov). The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 56. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

47. A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338–2850.

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

48. 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 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

### III. Pre-Auction Procedures

#### A. Auction Seminar

49. On Tuesday, May 25, 2004, the FCC will sponsor a free seminar for Auction No. 56 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, auction conduct, the FCC Automated Auction System, auction rules, and the 24 GHz service rules.

#### B. Short-Form Application (FCC Form 175)—Due June 4, 2004

50. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6 p.m. e.t. on June 4, 2004. Late applications will not be accepted.

##### i. Electronic Filing

51. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon e.t. on May 25, 2004, until 6 p.m. e.t. on June 4, 2004. 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 4, 2004.

52. Applicants must press the “SUBMIT Application” button on the “Submission” page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 56 Procedures Public Notice*. Technical

support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8 a.m. to 6 p.m. e.t. In order to provide better service to the public, all calls to the hotline are recorded.

##### ii. Completion of FCC Form 175

53. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 56 Procedures Public Notice*.

##### iii. Electronic Review of FCC Form 175

54. The FCC Form 175 electronic review system may be used to locate and print applicants’ FCC Form 175 information. There is no fee for accessing this system. See Attachment C of the *Auction No. 56 Procedures Public Notice* for details on accessing the review system.

55. Applicants may also view other applicants’ completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications.

**Note:** Applicants should not include sensitive information (i.e., TIN/EIN) on any exhibits to their FCC Form 175 applications.

#### C. Application Processing and Minor Corrections

56. 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: (i) Those applications accepted for filing; (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

#### D. Upfront Payments—Due June 29, 2004

57. 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) (Revised 2/03). All upfront payments must be received by Mellon Bank in Pittsburgh, PA by 6 p.m. e.t. on June 29, 2004. Failure to deliver the upfront payment by the June 29, 2004, deadline will result in dismissal of the application and disqualification from participation in the auction. For specific details regarding upfront payments, see III.D. of the *Auction No. 56 Procedures Public Notice*.

i. Making Auction Payments by Wire Transfer

58. Wire transfer payments must be received by 6 p.m. e.t. on June 29, 2004. 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.

59. Applicants must fax a completed FCC Form 159 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. 56." 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. 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.

ii. Amount of Upfront Payment

60. In the *Part 1 Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, 65 FR 52323, August 29, 2000, 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." 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 § 1.2110 of the Commission's rules.

61. The amount of the upfront payment will determine the number of bidding units on which a bidder may place bids. In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have an 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 high bids at any given time.

62. For Auction No. 56 the Commission adopts upfront payments on a license-by-license basis using the following formula:  $\$0.00015 \times \text{MHz} \times \text{License Area Population}$  with a minimum of \$2,500 per license.

63. The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 56 Procedures Public Notice*. Attachment A of the *Auction No. 56 Procedures Public Notice* also includes the number of bidding units for each license.

64. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units on which it may wish to be active (bidding units associated with licenses on which the bidder has the standing high bid from the previous round and licenses on which the bidder places a bid in the current round) in any single round, and submit an upfront payment 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 should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

65. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. 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.

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

66. The Commission will use wire transfers for all Auction No. 56 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that the following pertinent information be supplied to the FCC: Name of Bank; ABA Number; Contact and Phone Number; Account Number to Credit; Name of Account Holder; FCC Registration Number (FRN); Taxpayer Identification Number; Correspondent Bank (if applicable); Account Number. 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.

E. Auction Registration

67. 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.

68. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) and the other containing the SecurID cards, both of which are required to place bids. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

69. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, July 21, 2004, should contact the Auctions Hotline at (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

70. Qualified bidders should note that lost bidder identification numbers or 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.

F. Remote Electronic Bidding

71. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. 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. For security



purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. 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. 56. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number.

#### G. Mock Auction

72. All qualified bidders will be eligible to participate in a mock auction on Friday, July 23, 2004. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended.

### III. Auction Event

73. The first round of bidding for Auction No. 56 will begin on Wednesday, July 28, 2004. 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.

#### H. Auction Structure

##### i. Simultaneous Multiple Round Auction

74. The Commission will award all licenses in Auction No. 56 in a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

##### ii. Maximum Eligibility and Activity Rules

75. The amount of the upfront payment submitted by a bidder will determine the initial (maximum) eligibility (as measured in bidding units) for each bidder.

76. Note that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 56 Procedures Public Notice* on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, applicants are cautioned to calculate their upfront payments carefully. The

total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

77. 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.

78. 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 high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits a bid in the current round (see "Minimum Acceptable Bids and Bid Increments" in section IV.B.iii). The minimum required activity is expressed as a percentage of the bidder's current bidding 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.iii and "Stage Transitions" in section IV.A.iv), we adopt them for Auction No. 56.

##### iii. Auction Stages

79. The Commission will conduct the auction in two stages and employ an activity rule. Listed are the activity levels for each stage of the auction. The FCC 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 eligibility will be required to be active on licenses encompassing 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 activity (the sum of bidding units of the bidder's standing high 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 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 activity (the sum of bidding units of the bidder's standing high bids

and bids during the current round) by twenty-nineteenths (20/19).

*Caution:* Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high 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 using the bidding system's bidding module.

80. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 56.

##### iv. Stage Transitions

81. The auction will 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 high bids, is below 20 percent for three consecutive rounds of bidding in each Stage. The Bureau will retain the discretion to change stages unilaterally by announcement during the auction.

82. Thus, 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 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. We believe that these stage transition rules are appropriate for use in Auction No. 56.

##### v. Activity Rule Waivers and Reducing Eligibility

83. Each bidder will be provided three activity rule waivers that may be used 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 level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

84. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where



a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers available; or (ii) 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 current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

85. 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 round by using the reduce eligibility function in the bidding 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.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

86. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the FCC Automated Auction System) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new bids or withdrawals will not keep the auction open.

**Note:** Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

#### vi. Auction Stopping Rules

87. For Auction No. 56, the Commission will employ a simultaneous stopping rule, and retain discretion to invoke a modified version of the stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder.

88. In addition, the Bureau may reserve the right to declare that the auction will end after a designated number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau may exercise these options

only in certain 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.

#### vii. Auction Delay, Suspension, or Cancellation

89. 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. 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. 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.

#### I. Bidding Procedures

##### i. Round Structure

90. The initial bidding schedule 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.

91. 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.

##### ii. Reserve Price or Minimum Opening Bid

92. For Auction No. 56, the Bureau adopts the following license-by-license formula for calculating minimum opening bids:  $\$0.0003 \times \text{MHz} \times \text{License Area Population}$  with a minimum of \$2,500 per license.

93. The minimum opening bids we adopt for Auction No. 56 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 on specific licenses.

94. The specific minimum opening bids for each license available in Auction No. 56 are set forth in Attachment A of the *Auction No. 56 Procedures Public Notice*.

##### iii. Minimum Acceptable Bids and Bid Increments

95. In the *Auction No. 56 Comment Public Notice*, we will use a smoothing methodology to calculate minimum acceptable bids. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum percentage based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity on a license, decreasing the time it takes for licenses receiving many bids to reach their final prices. The formula used to calculate this increment is included as Attachment F of the *Auction No. 56 Procedures Public Notice*. We will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%). Hence, at these initial settings, the percentage increment will fluctuate between 10% and 20% depending upon the number of bids for the license. The Bureau will retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate.

96. 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. The FCC Automated Auction System will list the nine bid amounts for each license.

97. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described in Attachment F of the *Auction No. 56 Procedures Public Notice*. The difference between the minimum acceptable bid and the standing high bid for each license will define the bid increment—*i.e.*,  $\text{bid increment} = (\text{minimum acceptable bid}) - (\text{standing high bid})$ . The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using

multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

98. At the start of the auction and until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Corresponding additional bid amounts will be calculated using bid increments defined as the difference between the minimum opening bid times one plus the percentage increment, rounded as described in Attachment F of the *Auction No. 56 Procedures Public Notice*, and the minimum opening bid—*i.e.*, bid increment = (minimum opening bid)(1 + percentage increment) {rounded} – (minimum opening bid). At the start of the auction and until a bid has been placed on a license, the nine acceptable bid amounts for each license consist of the minimum opening bid and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the minimum opening bid plus the bid increment, the third bid amount equals the minimum opening bid plus two times the bid increment, etc.).

99. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

100. The Bureau retains the discretion to change the minimum acceptable bids and bid increments and the methodology for determining the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Automated Auction System. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant.

#### iv. High Bids

101. At the end of each bidding round, the high bids will be determined based on the highest gross bid amount received for each license. A high bid from a previous round is sometimes referred to as a “standing high bid.” A “standing high bid” will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. Bidders are reminded that standing high bids count towards bidding activity.

102. In the event of identical high bids on a license in a given round (*i.e.*, tied bids), a Sybase® SQL pseudo-random number generator will be used to assign a random number to each bid. The remaining bidders, as well as the high bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in a subsequent round, the high bid from the previous round will win the license. If any bids are received on the license in a subsequent round, the high bid will once again be determined on the highest gross bid amount received for the license.

#### v. Bidding

103. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high 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.

104. Please note that all bidding will take place remotely either through the FCC Automated 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 bid submission.)

105. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) The licenses applied for on FCC Form 175 and (ii) 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.

106. In order to access the bidding function of the FCC Automated Auction System, bidders must be logged in during the bidding round using the bidder identification number provided in the registration materials, and the password generated by the SecurID card. Bidders are strongly encouraged to print bid confirmations for each round *after* they have completed all of their activity for that round.

107. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Automated 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 Automated Auction System also includes an import function that allows bidders to upload text files containing bid information.

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

#### vi. Bid Removal and Bid Withdrawal

109. For Auction No. 56 the Commission adopts bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Commission will limit each bidder to withdrawals in no more than two rounds during the course of the auction. The rounds in which withdrawals are used will be at the bidder's discretion.

110. *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 bid” function in the bidding 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.

111. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function in the FCC Automated Auction System (assuming that the bidder has not reached its withdrawal limit). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g).

**Note:** Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.

112. The Bureau will limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals

during the auction will be subject to the bid withdrawal payments specified in 47 CFR 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.

113. *Calculation.* Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. 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 high bid in the same or subsequent auction(s). 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).

114. 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. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.

#### vii. Round Results

115. 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 high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 56 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.

#### viii. Auction Announcements

116. 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 on the FCC Automated Auction System.

### IV. Post-Auction Procedures

#### A. Down Payments and Withdrawn Bid Payments

117. 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.

118. 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. 56 to 20 percent of the net amount of its winning bids (gross bids less any applicable entrepreneur, small business, or very small business bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," section IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

#### B. Final Payments

119. 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)

120. 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) and required exhibits for each license won through Auction No. 56. Further filing instructions will be provided to auction winners at the close of the auction.

#### D. Default and Disqualification

121. 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 CFR 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. 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.

#### E. Refund of Remaining Upfront Payment Balance

122. All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 56 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.

123. 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 high bid during the auction must submit a written refund request. If a bidder has 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 request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

124. Bidders are encouraged to file their refund information electronically using the refund information portion of 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.

Federal Communications Commission.

**Gary Michaels,**

*Deputy Chief, Auction and Spectrum Access Division, WTB.*

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## FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-04-57-A (Auction No. 57); DA 04-954]

### Automated Maritime Telecommunications System Spectrum Auction Scheduled for September 15, 2004; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of twenty Automated Maritime Telecommunications System licenses in Auction No. 57, scheduled to begin on September 15, 2004. This document also seeks comment on reserve prices or minimum opening bids and other auction procedures.

**DATES:** Comments are due on or before April 23, 2004, and reply comments are due on or before April 30, 2004.

**ADDRESSES:** Comments and reply comments must be sent by electronic mail to the following address: [auction57@fcc.gov](mailto:auction57@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For legal questions: Christopher Shields, (202) 418-0660. For general auction questions: Lyle Ishida (202) 418-0660, Lisa Stover (717) 338-2888. For service rule questions: Roberto Mussenden or Ghassan Khalek, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 57 Comment Public Notice* released on April 5, 2004. The complete text of the *Auction No. 57 Comment Public Notice*, including the attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The *Auction No. 57 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402,

Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

1. By the *Auction No. 57 Comment Public Notice*, the Wireless Telecommunications Bureau ("Bureau") announces the auction of 20 Automated Maritime Telecommunications System (AMTS) licenses. This auction is scheduled to commence on September 15, 2004 (Auction No. 57). AMTS is a specialized system of coast stations which provide integrated and interconnected marine voice and data communications, somewhat like a cellular phone system, for tugs, barges, and other vessels on waterways. Service to units on land is permitted, so long as marine-originating communications receive priority. In Auction No. 57, two 500-kilohertz blocks of paired spectrum in the 217/219 MHz band will be offered in each of 10 AMTS Areas (AMTSAs).

2. A complete list of licenses available for Auction No. 57 is included as Attachment A of the *Auction No. 57 Comment Public Notice*.

The following table describes the licenses that will be auctioned in each of the AMTSAs:

| Block   | Frequency bands (MHz)         | Total bandwidth | Pairing           | Geographic area type | No. of licenses |
|---------|-------------------------------|-----------------|-------------------|----------------------|-----------------|
| A ..... | 217.5-218.0/219.5-220.0 ..... | 1 MHz .....     | 2 × 500 kHz ..... | AMTSA .....          | 10              |
| B ..... | 217.0-217.7/219.0-219.5 ..... | 1 MHz .....     | 2 × 500 kHz ..... | AMTSA .....          | 10              |

**Note:** The table displays the band edges of spectrum blocks A and B using the twenty 25 kHz channels that comprise each block as listed in 47 CFR 80.385(a)(2). It should be noted that pursuant to 47 CFR 80.481, licensees are not required to use 25 kHz channelization and may choose any channelization scheme; however, regardless of the channelization scheme used, emissions at these band edges must be attenuated within the limitation that would be required under 47 CFR 80.211 if the licensee were using 25 kHz channels.

3. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed \* \* \* before issuance of bidding rules, to permit notice and comment on proposed auction procedures. \* \* \*" Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures

prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 57.

#### I. Auction Structure

##### A. Simultaneous Multiple-Round Auction Design

4. The Bureau proposes to award all licenses included in Auction No. 57 in a simultaneous multiple-round auction. This methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureau seeks comment on this proposal.

##### B. Upfront Payments and Bidding Eligibility

5. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area and the value of similar spectrum. The upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments

related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 57, The Bureau proposes to calculate upfront payments on a license-by-license basis using the following formula:

$\$0.0075 \times \text{MHz} \times \text{License Area Population with a minimum of } \$1,000 \text{ per license.}$  Accordingly, in Attachment A of the *Auction No. 57 Comment Public Notice* the Bureau lists all licenses included in Auction No. 57 and the proposed upfront payment for each license. The Bureau seeks comment on this proposal.

6. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the maximum number of bidding units on which a bidder may place bids. This limit is a bidder's initial eligibility. Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the