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**Magalie R. Salas,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD05-3-000]

#### Promoting Regional Transmission Planning and Expansion to Facilitate Fuel Diversity Including Expanded Uses of Coal-Fired Resources; Second Supplemental Notice of Technical Conference

May 5, 2005.

As announced in a Notice of Technical Conference issued on February 16, 2005 and a Supplemental Notice issued March 21, 2005, a technical conference will be held on Friday, May 13, 2005, to identify regional solutions to promoting regional transmission planning, expansion and enhancement to facilitate fuel diversity including increased integration of coal-fired resources to the transmission grid. The conference will be held at the Charleston Marriott Town Center, 200 Lee Street East, Charleston, West Virginia 25301. The conference is scheduled to begin at 8:30 a.m. (e.s.t.) and end at approximately 4:30 p.m. The Commissioners will attend and participate.

An agenda for this meeting is included as Attachment A. Although registration is not a strict requirement, in-person attendees are asked to register for the conference on-line by close of business on May 10, 2005 at <http://www.ferc.gov/whats-new/registration/coal-05-13-form.asp>.

Transcripts of the conference will be immediately available from Ace Reporting Company (202-347-3700 or 1-800-266-6646) for a fee. They will be available for the public on the Commission's eLibrary system and on the calendar page posting for this event seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via Real Audio or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at Capitol Connection (703-933-3100) as soon as possible or visit the Capitol Connection Web site at <http://>

[www.capitolconnection.org](http://www.capitolconnection.org) and click on "FERC."

For additional information, please contact Sarah McKinley at 202-502-8004, [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

**Magalie R. Salas,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-05-60-B; DA 05-737]

### 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

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the procedures and minimum opening bids for the upcoming auction of five licenses in the Lower 700 MHz Band. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

**DATES:** Auction No. 60 is scheduled for July 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** *Auctions and Spectrum Access Division, WTB:* For legal questions: Howard Davenport at (202) 418-0660, for general auction questions: Ray Knowles or Lisa Stover at (717) 338-2888. *Media Contact:* Lauren Patrich at (202) 418-7944.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 60 Procedures Public Notice* released on March 22, 2005. The complete text of the *Auction No. 60 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. 60 Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or you may contact BCPI at their Web site: <http://www.BCPIWEB.com>. When ordering a document from BCPI, please provide the appropriate FCC document number for

example DA 05-737 for a copy of this Public Notice. This document is also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/60/>.

## I. General Information

### A. Introduction

1. The *Auction No. 60 Procedures Public Notice* 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, the Wireless Telecommunications Bureau ("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. The Bureau received no comments in response to the *Auction No. 60 Comment Public Notice*, 70 FR 6436, (February 7, 2005).

#### i. Background of Proceeding

2. On January 18, 2002, the Commission released the *Lower 700 MHz Report and Order*, 67 FR 45380 (July 9, 2002) which adopted allocation and service rules for the Lower 700 MHz Band. 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"). 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.

3. 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”). All operations in the Lower 700 MHz band are generally regulated under the framework of Part 27’s technical, licensing, and operating rules. To 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.

Finally, the Commission established competitive bidding procedures and voluntary band-clearing mechanisms for the Lower 700 MHz band. On June 14, 2002, the Commission affirmed its decisions in the *Lower 700 MHz Report and Order*.

4. 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.

ii. Licenses To Be Auctioned

5. 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.

AUCTION NO. 60.—LOWER 700 MHz BAND LICENSES TO BE AUCTIONED

Market number	Market name	License number	Block	Frequencies (MHz)	Bandwidth (MHz)
CMA169 .....	Mayaguez, PR .....	WZ–CMA169–C .....	C .....	710–716, 740–746	12
CMA202 .....	Arecibo, PR .....	WZ–CMA202–C .....	C .....	710–716, 740–746	12
CMA723 .....	Puerto Rico 1—Rincon .....	WZ–CMA723–C .....	C .....	710–716, 740–746	12
CMA727 .....	Puerto Rico 5—Ceiba .....	WZ–CMA727–C .....	C .....	710–716, 740–746	12
CMA729 .....	Puerto Rico 7—Culebra .....	WZ–CMA729–C .....	C .....	710–716, 740–746	12

B. Rules and Disclaimers

i. Relevant Authority

6. 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.

7. 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’s Reference Information Center. Documents may also be purchased from the Commission’s duplicating contractor, Best Copy and Printing Inc.

ii. Prohibition of Collusion

8. 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. *This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid*. For purposes of this prohibition, § 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.

9. 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.

10. 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. 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).

11. 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.

12. 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. 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. 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.

13. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule these documents are available on the Commission's anti-collusion web page.

#### iii. Interference Protection of Television Services

14. Among other licensing and technical rules, new Lower 700 MHz band licensees must comply with the interference protection requirements set forth in § 27.60 of the Commission's rules. Generally, § 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. 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. 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. 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.

15. 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. 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.

16. 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. 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. The Commission may also permit certain Channel 60–69 broadcasters to relocate temporarily into Channels 52–58 pursuant to a voluntary clearing arrangement.

17. 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. 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. 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. 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. 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.

18. Subsequent to the adoption by the Commission of its voluntary clearing policy, the Auction Reform Act of 2002 was enacted. 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."

19. Finally, the Commission notes 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. 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.

iv. Due Diligence

20. 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 § 27.60 of the Commission's rules. 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.

21. To aid applicants, 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.

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

22. 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.

23. 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](mailto:mbinfo@fcc.gov). 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.

24. 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.

25. Applicant should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. The Commission notes 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.

26. 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.

v. Bidder Alerts

27. 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.

28. 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. 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).

vi. National Environmental Policy Act Requirements

29. 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. 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).

C. Auction Specifics

i. Auction Date

30. The auction will begin on Wednesday, July 20, 2005, as announced in the *Auction No. 60 Comment Public Notice*, 70 FR 6436 (February 7, 2005). 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.

ii. Auction Title

31. Auction No. 60—Lower 700 MHz Band C block.

iii. Bidding Methodology

32. 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.

iv. Pre-Auction Dates and Deadlines

ISAS Orientation Sessions .....	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 p.m. ET.
Short-Form Application (FCC Form 175) Filing Window Deadline .....	June 3, 2005; 6 p.m. ET.
Upfront Payments (via wire transfer) .....	June 30, 2005; 6 p.m. ET.
Mock Auction .....	July 18, 2005.
Auction Begins .....	July 20, 2005.

v. Requirements for Participation

33. Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6 p.m. Eastern Time (ET), June 3, 2005.
- Submit a sufficient upfront payment and an FCC Remittance Advice

Form (FCC Form 159) by 6 p.m. ET, June 30, 2005.

- Comply with all provisions outlined in this public notice.

vi. General Contact Information

GENERAL AUCTION INFORMATION:

General Auction Questions ..... FCC Auctions Hotline, (888) 225–5322, Press Option #2, or direct Seminar Registration ..... (717) 338–2888, Hours of service: 8 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 .....	Mobility Division, (202) 418-0620.
Licensing Issues	
Due Diligence	
Incumbency Issues	
TECHNICAL SUPPORT:	
Electronic Filing .....	FCC Auctions Technical Support Hotline, (877) 480-3201, option nine or (202) 414-1250, (202) 414-1255 (TTY), Hours of service: 8 a.m.-6 p.m. ET, Monday through Friday.
FCC Auction System	
PAYMENT INFORMATION:	
Wire Transfers .....	FCC Auctions Accounting Branch, (202) 418-0578, (202) 418-2843 (Fax).
Refunds	Will be furnished only to qualified bidders.
TELEPHONIC BIDDING .....	Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (800) 378-3160, <a href="http://www.bcpweb.com">http://www.bcpweb.com</a> .
FCC COPY CONTRACTOR: Additional Copies of Commission Documents.	Lauren Patrich (202) 418-7944, (800) 418-3676 (outside Washington, DC), (202) 418-3676 (in the Washington area) <a href="http://www.fcc.gov/formpage.html">http://www.fcc.gov/formpage.html</a> .
PRESS INFORMATION—FCC FORMS .....	<a href="http://www.fcc.gov">http://www.fcc.gov</a> .
FCC INTERNET SITES .....	<a href="http://wireless.fcc.gov/auctions">http://wireless.fcc.gov/auctions</a> .
	<a href="http://wireless.fcc.gov/uls">http://wireless.fcc.gov/uls</a> .

## II. Short-Form (FCC Form 175) Filing Requirements

34. 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. 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 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. Applicants should read the instructions 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.

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

36. 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

#### i. Size Standards for Bidding Credits

37. 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. 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.

38. For Auction No. 60, bidding credits will be available to small businesses, very small businesses, and entrepreneurs, or consortia thereof, as defined in § 27.702, 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.
- 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.
- 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;

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.

39. 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.

#### ii. Tribal Lands Bidding Credit

40. The Commission notes that there are no federally recognized tribal 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.

#### iii. Installment Payments

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

### B. License Selection

42. 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. 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

43. 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. Applicants will also 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. 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.

44. 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.

#### D. Ownership Disclosure Requirements

45. 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 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 § 1.2112 of the Commission's rules. 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

46. 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.

47. 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 auctions. 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. 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.

48. 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. 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.

49. 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 §§ 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.

#### F. Provisions Regarding Former and Current Defaulters

50. 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 § 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. 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 § 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. 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.

51. 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 § III.E.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

52. 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.

53. 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. 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.

#### G. Other Information

54. Applicants owned by minorities or women, as defined in § 1.2110(c)(2), may identify themselves in filling out their FCC Form 175 short-form application 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.

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

55. After the short-form filing deadline (6 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). 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: [auction60@fcc.gov](mailto:auction60@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)

56. 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 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

57. 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. These sessions were held on March 31 and April 21, 2005, and are also available via webcast.

#### B. Auction Seminar—May 24, 2005

58. 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.

59. To register, complete the registration form 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 electronically and received at the Commission no later than 6 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.

60. Applications may generally be filed at any time beginning at noon ET on May 24, 2005, until 6 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.

61. 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. 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 a.m. to 6 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

62. 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.

63. 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).

*E. Upfront Payments—Due June 30, 2005*

64. 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 p.m. ET on June 30, 2005.

*i. Making Auction Payments by Wire Transfer*

65. Wire transfer payments must be received by 6 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.

66. 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. 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. FCC Form 159*

67. 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. 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.

*iii. Amount of Upfront Payment*

68. 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.

69. In the *Auction No. 60 Comment Public Notice*, the Commission 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. 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.

70. 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:

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

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

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

72. 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. 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.

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

73. 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.

*F. Auction Registration*

74. 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.

75. 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.

76. 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.

77. 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

78. 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.

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

#### H. Mock Auction

80. 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

81. 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

###### i. Simultaneous Multiple Round Auction

82. 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. The Commission concludes 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 allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

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

83. 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 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.

84. 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.

85. 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). 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), the Commission adopts them for Auction No. 60.

###### iii. Auction Stages

86. In the *Auction No. 60 Comment Public Notice*, the Commission proposed to conduct the auction in two stages and employ an activity rule. The Commission 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 eligibility. Finally, the Commission 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. The Commission received no comments on this proposal.

87. The Commission adopts its proposals for the activity rules and stages. The Bureau reserves the discretion to further alter the activity percentages before and/or during the auction.

88. *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).

89. *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.

#### iv. Stage Transitions

90. 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 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.

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

91. Based upon its experience in previous auctions, the Commission adopts 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. The Commission is 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.

92. 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.

93. 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). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

94. 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.

#### vi. Auction Stopping Rules

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

96. 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.

97. In addition, the Bureau proposed that it reserves 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.

98. The Bureau 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. 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.

99. The Bureau adopts 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. The Bureau believes that these stopping rules are most appropriate for Auction No. 60, because its experience in prior auctions demonstrates that the auction stopping

rules balance the interests of administrative efficiency and maximum bidder participation.

vii. Auction Delay, Suspension, or Cancellation

100. The Bureau adopts its 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. The Bureau emphasizes 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.

*B. Bidding Procedures*

i. Round Structure

101. 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.

102. 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

103. 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. 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. 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. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

104. 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. Specifically, for Auction No. 60, the Bureau proposed the following license-by-license basis using a formula based on bandwidth and license area population:

$$\$0.0075 * \text{MHz} * \text{License Area Population with a minimum of } \$1,000 \text{ per license.}$$

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

106. The Bureau adopts its proposal. The minimum opening bid amounts the Commission adopts for Auction No. 60 are reducible at the discretion of the Bureau. The Commission 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.

107. The specific minimum opening bid amounts for each license available in Auction No. 60 are set forth in Attachment A of the *Auction No. 60 Procedures Public Notice*.

iii. Minimum Acceptable Bid Amounts and Bid Increment Amounts

108. In the *Auction No. 60 Comment Public Notice*, the Bureau 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. The Bureau will round the result using our standard rounding procedures. The Bureau further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if it determines that circumstances so dictate. The Bureau received no comment on this issue. The auction will begin with a minimum acceptable bid percentage of 10%.

109. 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 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.

110. 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. The Bureau 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.

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

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

112. 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.

#### iv. Provisionally Winning Bids

113. 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.

114. 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). 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. 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.

#### v. Bidding

115. 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.

116. 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.

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

118. 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.

119. 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 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.

120. 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.

121. 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.

#### vi. Bid Removal and Bid Withdrawal

122. In the *Auction No. 60 Comment Public Notice*, the Commission proposed bid removal and bid withdrawal procedures. 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. The Commission received no comments on this issue.

123. 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 the Commission adopts them for Auction No. 60.

124. 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 CFR 1.2104(g). **Note:** Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.

125. In previous auctions, the Bureau has detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While the Commission continues 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, the Commission concludes that, for Auction No. 60, adoption of a limit on the use of withdrawals to one round per bidder is appropriate. By doing so the Commission believes the Commission strikes 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.

126. 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 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.

127. 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. 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.

128. *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 provisionally winning 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). 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.

129. 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. As amended, § 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.

#### vii. Round Results

130. 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.

#### viii. Auction Announcements

131. 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.

#### ix. Maintaining the Accuracy of FCC Form 175 Information

132. 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: [auction60@fcc.gov](mailto:auction60@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

133. 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.

134. 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 CFR 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

135. 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)

136. 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 CFR 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)*

137. 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 CFR 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*

138. 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.

#### *F. Refund of Remaining Upfront Payment Balance*

139. 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.

140. 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, Attn: Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

141. 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.

Federal Communications Commission.

#### **Gary D. Michaels,**

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

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**BILLING CODE 6712-01-P**

## **FEDERAL DEPOSIT INSURANCE CORPORATION**

### **Sunshine Act Meeting**

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Monday, May 16, 2005, to consider the following matters:

#### **Summary Agenda**

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous

Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

### **Discussion Agenda**

Memorandum re: The FDIC Insurance Funds: Outlook and Premium Rate Recommendations for the Second Semiannual Assessment Period of 2005.

Memorandum and resolution re: Interim Final Rule on Deposit Insurance Coverage of the Accounts of Qualified Tuition Programs Under Section 529 of the Internal Revenue Code.

Memorandum and resolution re: Interim Final Rule—Part 334 Medical Privacy Regulations under the Fair and Accurate Credit Transactions Act of 2003.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington DC.

The FDIC will provide attendees with auxiliary aids (*e.g.*, sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416-2089 (Voice); or (202) 416-2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898-7043.

Dated: May 9, 2005.

Federal Deposit Insurance Corporation.

#### **Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 05-9595 Filed 5-10-05; 12:52 pm]

**BILLING CODE 6714-01-M**

## **FEDERAL DEPOSIT INSURANCE CORPORATION**

### **Sunshine Act Meeting**

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Monday, May 16, 2005, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider matters relating to the Corporation's corporate, supervisory and personnel activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898-7043.

Dated: May 9, 2005.