

**FEDERAL COMMUNICATIONS COMMISSION**

[AU Docket No. 10–107; DA 10–849]

**Auction of 218–219 MHz Service and Phase II 220 MHz Service Licenses Scheduled for December 7, 2010; Comment Sought on Competitive Bidding Procedures for Auction 89****AGENCY:** Federal Communications Commission.**ACTION:** Notice.

**SUMMARY:** This document announces the auction of certain 218–219 MHz and Phase II 220 MHz Services licenses scheduled to commence on December 7, 2010 (Auction 89). This document also seeks comments on competitive bidding procedures for Auction 89.

**DATES:** Comments are due on or before June 15, 2010, and reply comments are due on or before June 29, 2010.

**ADDRESSES:** You may submit comments, identified by AU Docket No. 10–107, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs/>. Follow the instructions for submitting comments.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, *Attn:* WTB/ASAD, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or telephone: 202–418–0530 or TTY: 202–418–0432.

- The Wireless Telecommunications Bureau requests that a copy of all

comments and reply comments be submitted electronically to the following address: [auction89@fcc.gov](mailto:auction89@fcc.gov).

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202–418–0530 or TTY: 202–418–0432.

**FOR FURTHER INFORMATION CONTACT:** *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:*

For auction legal questions: Sayuri Rajapakse at (202) 418–0660; for general auction questions: Debbie Smith or Lisa Stover at (717) 338–2868. *Mobility Division:* for service rules questions: Michael Connelly (legal) or Melvin Spann (technical) at (202) 418–0620.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction 89 Comment Public Notice* released on May 24, 2010. The complete text of the *Auction 89 Comment Public Notice*, including attachments and related Commission documents, is available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction 89 Comment Public Notice* and related Commission documents also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA10–849. The *Auction 89 Comment Public Notice* and related documents also are available on the Internet at the Commission's Web site:

<http://wireless.fcc.gov/auctions/89/>, or by using the search function for AU Docket No. 10–107 on the ECFS Web page at <http://www.fcc.gov/cgb/ecfs/>.

**I. Introduction**

1. The Wireless Telecommunications Bureau (Bureau) announces an auction of 218–219 MHz Service licenses and Phase II 220 MHz Service licenses to commence on December 7, 2010 designated as Auction 89.

**II. Licenses To Be Offered in Auction 89**

2. Auction 89 will include a total of 1,868 licenses. These include licenses for spectrum not previously offered at auction, licenses that remained unsold

from a previous auction, licenses on which a winning bidder in a previous auction defaulted, and licenses for spectrum previously associated with licenses that cancelled or terminated. In a few cases, the available license does not cover the entire geographic area or bandwidth that was covered by a previously auctioned license due to partitioning or disaggregation by a previous licensee. Attachment A of the *Auction 89 Comment Public Notice* provides a complete list of the licenses that are available in Auction 89.

**A. License Descriptions****i. 218–219 MHz Service Licenses**

3. Auction 89 will offer 1,420 licenses in the 218–219 MHz Service: 716 A Block licenses and 704 B Block licenses covering a total of 727 Cellular Market Areas (CMAs).

**ii. Phase II 220 MHz Service Licenses**

4. Auction 89 will offer 448 Phase II 220 MHz Service licenses, including 444 Economic Area (EA) licenses and 4 Economic Area Grouping (EAG) licenses, covering a total of 154 separate EAs and EAGs.

5. Certain licenses being offered in Auction 89 are available for only part of the geographic license area because some previously-auctioned 220 MHz licenses were partitioned. In addition, four of these licenses available for only part of the geographic license area also cover less bandwidth due to previous disaggregation. The 220 MHz Service licenses available in this auction are listed and are more fully described in Attachment A of the *Auction 89 Comment Public Notice*.

**B. Incumbency Issues****i. 218–219 MHz Licenses**

6. The Commission has authorized certain site-based, low power operations on a secondary basis in the 216–220 MHz band. There are also incumbent geographic area 218–219 MHz Service licenses in certain CMAs. Additional information on those licenses may be found through the Commission's Universal Licensing System (ULS), which is available at <http://wireless.fcc.gov/uls>.

**ii. 220 MHz Licenses**

7. A number of incumbent Phase I (site-based) 220 MHz licensees are licensed and operating on frequencies between 220 and 222 MHz. Such Phase I incumbents must be protected from harmful interference by Phase II 220 MHz licensees in accordance with the Commission's rules. These limitations may restrict the ability of Phase II

geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. There are also incumbent geographic area 220 MHz licenses in certain EAs and EAGs. Additional information on those licenses may be found through ULS.

### III. Bureau Seeks Comment on Auction Procedures

#### A. Auction Design

##### i. Auction Format

8. The Bureau proposes to auction all licenses included in Auction 89 using the Commission's standard simultaneous multiple-round auction format. This type of auction offers every license for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual licenses. Typically, bidding remains open on all licenses until bidding stops on every license. The Bureau seeks comment on this proposal.

##### ii. Anonymous Bidding

9. The Bureau proposes to conduct Auction 89 using certain procedures for limited information disclosure, also referred to as anonymous bidding. Specifically, the Bureau proposes to withhold, until after the close of bidding, public release of (1) bidders' license selections on their short-form applications (FCC Form 175); (2) the amounts of bidders' upfront payments and bidding eligibility; and (3) information that may reveal the identities of bidders placing bids and taking other bidding-related actions.

10. Under these proposed limited information procedures, the amount of every bid placed and whether a bid was withdrawn would be disclosed after the close of every round, but the identities of bidders placing or withdrawing specific bids and the net bid amounts would not be disclosed until after the close of the auction.

11. Bidders would have access to additional information about their own bids. For example, bidders would be able to view their own level of eligibility, before and during the auction, through the Commission's Integrated Spectrum Auction System (ISAS or FCC Auction System).

12. Moreover, for the purpose of complying with 47 CFR 1.2105(c), the Commission's rule prohibiting certain communications between applicants, applicants would be made aware of other applicants with which they will not be permitted to cooperate, collaborate, or communicate, including

discussing bids or bidding strategies. Specifically, the Bureau would notify separately each applicant in Auction 89 whether applicants with short-form applications to participate in pending auctions, including but not limited to Auction 89, have applied for licenses in any of the same or overlapping geographic areas as that applicant.

13. After the close of bidding, bidders' license selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related actions would be made publicly available.

14. The Bureau seeks comments on its proposal to implement anonymous bidding in Auction 89. The Bureau also seeks comment on alternatives to the use of anonymous bidding procedures for Auction 89. When the Commission proposed limited information disclosure procedures for the first time, it did so in response to analysis suggesting that under certain circumstances the competitiveness and economic efficiency of an SMR auction may be enhanced if such information is withheld until after the close of the auction. The Bureau encourages parties to provide information about the benefits and costs of complying with limited information procedures as compared with the benefits and costs of alternative procedures that would provide for the disclosure of more information on bidder identities and interests in the auction. If commenters believe that the Bureau should not adopt procedures to limit the disclosure of certain bidder-specific information until after the auction, they should explain their reasoning.

#### B. Auction Structure

##### i. Round Structure

15. Auction 89 will consist of sequential bidding rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction.

16. The Commission will conduct Auction 89 over the Internet, and telephonic bidding will be available as well. The toll-free telephone number for the Auction Bidder Line will be provided to qualified bidders. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction.

17. The Bureau proposes to retain the 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. Under this proposal, the Bureau may change the amount of time

for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. The Bureau seeks comment on this proposal. Commenters may wish to address the role of the bidding schedule in managing the pace of the auction and the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirements or bid amount parameters, or by using other means.

##### ii. Stopping Rule

18. For Auction 89, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses. More specifically, bidding will close simultaneously on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids. Thus, unless the Bureau announces alternative stopping procedures, bidding will remain open on all licenses until bidding stops on every license. Consequently, it is not possible to determine in advance how long the auction will last.

19. Further, the Bureau proposes to retain the discretion to exercise any of the following options during Auction 89: (1) Use a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, withdraws a provisionally winning bid, or places any new bids on any license for 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; (2) Declare that the auction will end after a specified number of additional rounds. If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) after which the auction will close; and (3) Keep the auction open even if no bidder submits any new bids, applies a waiver, or withdraws any provisionally winning bids. In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a waiver.

20. The Bureau proposes to exercise these options only in certain circumstances, for example, where the

auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising certain of these options, the Bureau is likely to attempt to change the pace of the auction by, for example, changing the number of bidding rounds per day and/or changing minimum acceptable bids. The Bureau proposes to retain the discretion to exercise any of these options with or without prior announcement during the auction. The Bureau seeks comment on these proposals.

### iii. Information Relating to Auction Delay, Suspension, or Cancellation

21. For Auction 89, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient 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. The Bureau seeks comment on this proposal.

### C. Auction Procedures

#### i. Upfront Payments and Bidding Eligibility

22. For Auction 89, the Bureau proposes to make the upfront payments equal to the minimum opening bids. The specific upfront payments for each license are listed in Attachment A of the *Auction 89 Comment Public Notice*. The Bureau seeks comment on this proposal.

23. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the bidder's initial bidding eligibility in bidding units. The Bureau proposes that each license be assigned a specific number of bidding units equal to the upfront payment listed for the license, on a bidding unit per dollar basis. The specific bidding units for each license are listed in Attachment A of the

*Auction 89 Comment Public Notice*. The number of bidding units for a given license is fixed and does not change during the auction as prices rise. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses it selected on its short-form application (FCC Form 175) as long as the total number of bidding units associated with those licenses does not exceed its current eligibility.

24. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, 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. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. The Bureau seeks comment on these proposals.

#### ii. Activity Rule

25. 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. A bidder's activity in a round will be the sum of the bidding units associated with any licenses upon which it places bids during the current round and the bidding units associated with any licenses for which it holds provisionally winning bids. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

26. The Bureau proposes to divide the auction into at least two stages, each characterized by a different activity requirement. The auction will start in Stage One. The Bureau proposes to advance the auction to the next stage by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of auction activity, including but not limited to the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the increase in revenue. The

Bureau seeks comment on these proposals.

27. The Bureau proposes the following activity requirements, while noting again that the Bureau retains the discretion to change stages unilaterally by announcement during the auction. In each round of the first stage of the auction (Stage One), a bidder desiring to maintain its current bidding eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage One, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by five-fourths ( $\frac{5}{4}$ ). In each round of the second stage (Stage Two), 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 the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage Two, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by twenty-nineteenths ( $\frac{20}{19}$ ).

28. Under this proposal, the Bureau will retain the discretion to change the activity requirements during the auction. For example, the Bureau could decide not to transition to Stage Two if it believes the auction is progressing satisfactorily under the Stage One activity requirement, to transition to Stage Two with an activity requirement that is higher or lower than the 95 percent proposed herein, or to add an additional stage with a higher activity requirement. If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC Auction System.

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

29. Use of an activity rule waiver preserves the bidder's eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding, not to particular licenses. Activity rule waivers can be either proactive or automatic and are principally a mechanism for bidders to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from bidding in a particular round. The *Auction 89 Comment Public Notice* provides additional, more detailed

information on how activity rule waivers operate.

30. The Bureau proposes that each bidder in Auction 89 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction. The Bureau seeks comment on this proposal.

#### iv. Reserve Price or Minimum Opening Bids

31. A reserve price is an absolute minimum price below which an item will not be sold. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer may have the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

32. The Bureau proposes to establish minimum opening bid amounts for Auction 89. The Bureau believes a minimum opening bid amount, which has been used in other auctions, is an effective bidding tool for accelerating the competitive bidding process. The Bureau does not propose a separate reserve price for the licenses to be offered in Auction 89.

##### a. 218–219 MHz Licenses

33. For 218–219 MHz licenses offered in Auction 89, the Bureau proposes to calculate minimum opening bid amounts on a license-by-license basis using a formula based on bandwidth and license area population:  $\$.01 * \text{MHz} * \text{license area population}$  with a minimum of \$500 per license.

34. The resulting minimum opening bid amount proposed for each 218–219 MHz license available in Auction 89 is set forth in Attachment A of the *Auction 89 Comment Public Notice*.

##### b. 220 MHz Licenses

35. For 220 MHz licenses offered in Auction 89, the Bureau proposes to calculate minimum opening bid amounts on a license-by-license basis as follows: EA Licenses \$500 per license; and EAG Licenses  $\$.01 * \text{MHz} * \text{license area population}$ .

36. The minimum opening bid amount proposed for each 220 MHz license available in Auction 89 is set forth in Attachment A of the *Auction 89 Comment Public Notice*.

37. The Bureau seeks comment on its proposals concerning minimum opening bids. If commenters believe that these minimum opening bid amounts will

deter substantial numbers of bidders from placing bids on licenses, or are not reasonable amounts, or should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid amount levels or formulas. In establishing minimum opening bid amounts, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency within these spectrum bands, the availability of technology to provide service, the size of the service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the licenses being auctioned. The Bureau seeks comment on this approach, and on whether, consistent with Section 309(j), the public interest would be served by having no minimum opening bid amount or reserve price.

#### v. Bid Amounts

38. The Bureau proposes that, in each round, eligible bidders be able to place a bid on a given license using one or more pre-defined bid amounts. Under this proposal, the FCC Auction System interface will list the acceptable bid amounts for each license. The Bureau proposes to calculate bid amounts.

##### a. Minimum Acceptable Bids

39. The first of the acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until there is a provisionally winning bid on the license. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus a percentage of that bid amount calculated using the formula. In general, the percentage will be higher for a license receiving many bids than for a license receiving few bids. In the case of a license for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the license.

40. The percentage of the provisionally winning bid used to establish the minimum acceptable bid amount (the additional percentage) is calculated at the end of each round, based on an activity index. The activity index is a weighted average of (a) the number of distinct bidders placing a bid on the license, and (b) the activity index

from the prior round. Specifically, the activity index is equal to a weighting factor times the number of bidders placing a bid covering the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The additional percentage is determined as one plus the activity index times a minimum percentage amount, with the result not to exceed a given maximum. The additional percentage is then multiplied by the provisionally winning bid amount to obtain the minimum acceptable bid for the next round. The Bureau proposes initially to set the weighting factor at 0.5, the minimum percentage at 0.1 (10%), and the maximum percentage at 0.3 (30%). Hence, at these initial settings, the minimum acceptable bid for a license will be between ten percent and thirty percent higher than the provisionally winning bid, depending upon the bidding activity for the license. Equations and examples are shown in Attachment B of the *Auction 89 Comment Public Notice*.

##### b. Additional Bid Amounts

41. The Bureau proposes to allow no additional bid amounts per license. Thus, the minimum acceptable bid would be the only bid amount available in the FCC Auction System interface for each license. The Bureau seeks comment on this proposal. The Bureau also seeks comment on whether, in the alternative, to allow more bid amounts per license in a given round, and if so, how many—up to a maximum of eight additional bid amounts (for a total of nine bid amounts). In particular, commenters should address the issue of additional bid amounts in light of particular circumstances of Auction 89, including the nature of the license inventory.

42. If the Bureau allows additional bid amounts, it proposes to calculate any additional bid amounts using the minimum acceptable bid amount and a bid increment percentage—more specifically, by multiplying the minimum acceptable bid by one plus successively higher multiples of the bid increment percentage. If, for example, the bid increment percentage is five percent, the calculation of the first additional acceptable bid amount is (minimum acceptable bid amount) \* (1 + 0.05), or (minimum acceptable bid amount) \* 1.05; the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, or (minimum acceptable bid amount) \* 1.1, etc. If the Bureau allows additional bid amounts, it proposes to

set the bid increment percentage at 0.05 (5%).

43. The Bureau retains the discretion to change the minimum acceptable bid amounts, the number of acceptable bid amounts, the additional bid amounts, and the parameters of the formulas used to calculate minimum acceptable bid amounts and additional bid amounts if the Bureau determines that circumstances so dictate. Further, the Bureau retains the discretion to make such changes on a license-by-license basis.

44. The Bureau also retains the discretion to limit (a) the amount by which a minimum acceptable bid for a license may increase compared with the corresponding provisionally winning bid, and (b) the amount by which any additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, the Bureau could set a \$1 million limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if the activity-based formula calculates a minimum acceptable bid amount that is \$2 million higher than the provisionally winning bid on a license, the minimum acceptable bid amount would instead be capped at \$1 million above the provisionally winning bid. The Bureau seeks comment on the circumstances under which the Bureau should employ such a limit, factors it should consider when determining the dollar amount of the limit, and the tradeoffs in setting such a limit or changing parameters of the activity-based formula, such as changing the minimum percentage. If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC Auction System.

45. The Bureau seeks comment on its proposals. Commenters may wish to address the role of the minimum acceptable bids and the number of acceptable bid amounts in managing the pace of the auction and the tradeoffs in managing auction pace by changing the bidding schedule, activity requirements, or bid amount parameters, or by using other means.

#### vi. Provisionally Winning Bids

46. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. At the end of a bidding round, a provisionally winning bid for each license will be determined based on the highest bid amount received for the license. In the event of identical high bid amounts being submitted on a license in a given round (i.e., tied bids), the Bureau will use a random number generator to select a single provisionally

winning bid from among the tied bids. (Each bid is assigned a random number, and the tied bid with the highest random number wins the tiebreaker.) The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If any bids are received on the license in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the license.

47. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the license at the close of a subsequent round, unless the provisionally winning bid is withdrawn. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

#### vii. Bid Removal

48. For Auction 89, the Bureau proposes and seeks comment on the following bid removal procedures. Before the close of a bidding round, a bidder has the option of removing any bid placed in that round. By removing selected bids in the FCC Auction System, a bidder may effectively undo any of its bids placed within that round. In contrast to the bid withdrawal provisions, a bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

#### viii. Bid Withdrawal

49. A bidder may withdraw its provisionally winning bids using the *withdraw bids* function in the FCC Auction System. A bidder that withdraws its provisionally winning bid(s) is subject to the bid withdrawal payment provisions of the Commission rules.

50. For Auction 89, the Bureau proposes to limit each bidder to withdrawing provisionally winning bids in only one round during the course of the auction. To permit a bidder to withdraw bids in more than one round may encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The round in which withdrawals may be used will be at the bidder's discretion, and there is no limit on the number of provisionally winning bids that may be withdrawn during that round. Withdrawals must be in accordance with the Commission's rules, and are subject to the bid withdrawal payment provisions

specified in 47 CFR 1.2104(g). The Bureau seeks comment on these bid withdrawal procedures. If commenters believe that each bidder should be allowed to withdraw provisionally winning bids in more than one round during the course of the auction, or should not be permitted to withdraw any bids, they should state how many bid withdrawal rounds they seek and explain what specific factors lead them to that conclusion.

#### D. Post-Auction Procedures

##### i. Establishing the Interim Withdrawal Payment Percentage

51. The Bureau seeks comment on the appropriate percentage of a withdrawn bid that should be assessed as an interim withdrawal payment in the event that a final withdrawal payment cannot be determined at the close of the auction. In general, the Commission's rules provide that a bidder that withdraws a bid during an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or subsequent auction(s). If a bid is withdrawn and no subsequent higher bid is placed and/or the license is not won in the same auction, the final withdrawal payment cannot be calculated until after the close of a subsequent auction in which a higher bid for the license (or the equivalent to the license) is placed or the license is won. When that final payment cannot yet be calculated, the bidder that withdrew the bid is assessed an interim bid withdrawal payment, which will be applied toward any final bid withdrawal payment that is ultimately assessed. Section 1.2104(g)(1) of the Commission rules requires that the percentage of the withdrawn bid to be assessed as an interim bid withdrawal payment be between three percent and twenty percent and that it be set in advance of the auction.

52. The Commission has determined that the level of the interim withdrawal payment in a particular auction will be based on the nature of the service and the inventory of the licenses being offered. The Commission has noted that it may impose a higher interim withdrawal payment percentage to deter the anti-competitive use of withdrawals when, for example, bidders likely will not need to aggregate the licenses being offered in the auction, such as when few licenses are offered that are on adjacent frequencies or in adjacent areas, or when there are few synergies to be captured by combining licenses.

53. With respect to the licenses being offered in Auction 89, the service rules permit a variety of fixed, mobile, and paging services, though the opportunities for combining licenses on adjacent frequencies or in adjacent areas are limited in some cases. Balancing the potential need for bidders to use withdrawals to avoid winning incomplete combinations of licenses with the Bureau's interest in deterring undesirable strategic use of withdrawals, the Bureau proposes a percentage below the maximum twenty percent permitted under the current rules but above the three percent previously provided by the Commission's rules. Specifically, the Bureau proposes to establish an interim bid withdrawal payment of ten percent of the withdrawn bid for this auction. The Bureau seeks comment on this proposal. If commenters advocate the use of a different percentage they should provide relevant support including information on the likelihood that bidders will need to aggregate licenses on adjacent frequencies or in adjacent areas.

ii. Establishing the Additional Default Payment Percentage

54. Any winning bidder that, after the close of an auction, defaults—by, for example, failing to remit the required down payment within the prescribed period of time, failing to submit a timely long-form application, or failing to make full payment—or is otherwise disqualified is liable for a default payment under 47 CFR 1.2104(g)(2). This payment consists of a deficiency payment, equal to the difference between the amount of the bidder's bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

55. Section 1.2104(g)(2) of the Commission's rules provides that in advance of each auction without combinatorial or package bidding, establish an additional default payment for that auction of three percent up to a maximum of twenty percent. The level of this payment in each case will be based on the nature of the service and the inventory of the licenses being offered.

56. As previously noted by the Commission, defaults weaken the integrity of the auction process and impede the deployment of service to the public, and an additional default payment of more than three percent will be more effective in deterring defaults.

Given the history of these services and the inventory of the licenses being offered in Auction 89, the Bureau believes that an additional default payment percentage of fifteen percent will provide a sufficient deterrent to defaults. The Bureau seeks comment on this proposal.

#### IV. Ex Parte Rules

57. This proceeding has been designated as a permit-but-disclose proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in 47 CFR 1.1206(b).

Federal Communications Commission.

**Gary D. Michaels,**

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

[FR Doc. 2010-13880 Filed 6-8-10; 8:45 am]

**BILLING CODE 6712-01-P**

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### FDIC Advisory Committee on Economic Inclusion (ComE-IN); Notice of Meeting

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations.

**DATES:** Thursday, June 24, 2010, from 8:45 a.m. to 4 p.m.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898-7043.

**SUPPLEMENTARY INFORMATION:**

*Agenda:* The agenda will be focused on the Small Dollar Loan Pilot Program, Safe Transactional and Savings Account Proposed Templates, and Policy and Project Updates. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

*Type of Meeting:* The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562-6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This ComE-IN meeting will be Webcast live via the Internet at: <http://www.vodium.com/goto/fdic/advisorycommittee.asp>. This service is free and available to anyone with the following systems requirements: <http://www.vodium.com/home/sysreq.html>. Adobe Flash Player is required to view these presentations. The latest version of Adobe Flash Player can be downloaded at [http://www.adobe.com/shockwave/download/download.cgi?P1\\_Prod\\_Version=ShockwaveFlash](http://www.adobe.com/shockwave/download/download.cgi?P1_Prod_Version=ShockwaveFlash). Installation questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The ComE-IN meeting videos are made available on-demand approximately two weeks after the event.

Dated: June 4, 2010.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary, Federal Deposit Insurance Corporation.*

[FR Doc. 2010-13846 Filed 6-8-10; 8:45 am]

**BILLING CODE 6714-01-P**

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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are