

Respondent type	Estimated number of respondents <sup>1</sup>	Time to respond to telephone survey (hrs) <sup>2</sup>	Time to complete written response (hrs) <sup>2</sup>	Total respondent burden (hrs)	Estimated avg. hourly wage of respondent during the survey (\$/hr) <sup>3</sup>	Total respondent burden in monetary terms (\$)
Wave 1:						
PrintSTEP printer .....	160	0.25	1.00	200	25.00	5,000
Comparison printer .....	160	0.25	2.75	480	25.00	12,000
Wave 2:						
PrintSTEP printer .....	160	0.25	1.00	200	25.00	5,000
Comparison printer .....	160	0.25	2.75	480	25.00	12,000
Wave 3:						
PrintSTEP printer .....	160	0.25	1.00	200	25.00	5,000
Comparison printer .....	160	0.25	2.75	480	25.00	12,000
Community member .....	50	0.25	0.00	13	0.00	0
Total for all 3 waves .....				2053		51,000

<sup>1</sup> Based on estimated number of participants provided by pilot states with the breakdown as follows: 60, 60, and 40 participants expected in MO, NH, and MN, respectively.

<sup>2</sup> Based on preliminary testing of the survey instruments by Abt Associates.

<sup>3</sup> Based on Screenprinting and Graphic Imaging Association International's 1999 Wage Survey.

### Estimated Recordkeeping and Reporting Cost Burden on Respondents

The PrintSTEP evaluation utilizes telephone interviews and written data collection forms to collect all the data necessary from the respondent. The only cost to the respondents resulting from this survey is their time, which is covered in the section above. There are no other costs to the respondents and this section, therefore, is not applicable.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: February 24, 2000.

**Michael M. Stahl,**

*Director, Office of Compliance.*

[FR Doc. 00-5627 Filed 3-13-00; 8:45 am]

BILLING CODE 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

[FRL-6561-2]

#### Danmark Superfund Site; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Danmark Site in Tampa, Hillsborough County, Florida. The settlement requires the 59 settling parties to pay \$516,374.57 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), for Past Response Costs. EPA will consider public comments on the proposed settlement for thirty (30) days. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. Copies of the settlement are available from: Ms. Paula V. Batchelor, U.S. EPA Region 4, Waste Management Division, 61 Forsyth Street SW, Atlanta, Georgia 30303, 404/562-8887.

Written comments may be submitted to Ms. Batchelor on or before April 13, 2000.

Dated: March 2, 2000.

**Franklin E. Hill,**

*Chief, CERCLA Program Services Branch  
Waste Management Division.*

[FR Doc. 00-6347 Filed 3-13-00; 8:45 am]

BILLING CODE 6560-50-P

### FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-99-28-B (Auction No. 28); DA 99-2958]

#### Notice and Filing Requirements for Auction of Certain AM, FM, LPTV, and TV Broadcast Construction Permits Scheduled for March 21, 2000; Minimum Opening Bids and Other Procedural Issues

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction, procedures, reserve prices and minimum opening bids for the upcoming supplemental Closed Broadcast Auction (Auction No. 28) scheduled to commence on March 21, 2000.

**DATES:** Auction No. 28 is scheduled for March 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jose Ochoa, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Public Notice released December 23, 1999. The complete text of the public notice, including Attachments A through H, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW, Washington, DC. It may



also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20036, (202) 857-3800. It is also available on the Commission's web site at <http://www.fcc.gov>.

## A. Introduction

1. This Public Notice announces the procedures, reserve prices and minimum opening bids for the upcoming supplemental Closed Broadcast Auction (Auction No. 28). On November 19, 1999, the Mass Media Bureau ("MMB") and the Wireless Telecommunications Bureau ("WTB") (collectively, the "Bureaus") released a *Public Notice (Comment Public Notice)* 64 FR 67569 (December 2, 1999). This *Comment Public Notice* sought comment on the establishment of reserve prices and minimum opening bids for the auction of AM, FM, LPTV, and TV Broadcast Construction Permits, in accordance with the Balanced Budget Act of 1997. In addition, the Bureaus sought comment on a number of procedures to be used in Auction No. 28. In response to the *Comment Public Notice*, the Bureaus received comments from two applicants and no replies to these comments.

### (i) Background

2. All spectrum to be auctioned in Auction No. 28 is the subject of pending, mutually exclusive applications for referenced broadcast services for which the Federal Communications Commission ("FCC") has not approved settlement agreements. In Auctions No. 25 and No. 27, recently completed, the Commission auctioned similar groups of construction permits. This Auction No. 28 shall dispose of broadcast applications not included in those earlier Auctions. Auction No. 28 shall include mutually exclusive applications for full service FM, AM and television construction permits that were subject to the comparative hearing freeze pending resolution of the issues raised by *Bechtel II* (*Bechtel v. FCC* 10 F 3d 875 (D.C. Cir. 1993)). In addition, included in Auction No. 28 are certain mutually exclusive LPTV and TV translator displacement relief applications. Pursuant to the *Broadcast First Report and Order* 63 FR 48615 (September 11, 1998), participation in the auction will be limited to those applicants identified on Attachment A of this Public Notice. Applicants will be eligible to bid only on those construction permits for which they previously filed long-form applications (FCC Forms 301 or 349). Also pursuant to the *Broadcast First*

*Report and Order*, the Bureaus will dismiss the previously-filed long-form application of any pending applicant failing to timely file a short-form application to participate in Auction No. 28.

### (ii) Construction Permits Auctioned

3. A list of each of the groups of mutually exclusive applications ("MX Groups") in Auction No. 28, along with its reserve price or minimum opening bid and the upfront payment is included on Attachment A. Pursuant to the *Broadcast First Report and Order*, in those specific situations where both non-commercial and commercial applicants for full power stations filed mutually exclusive long-form applications for non-reserved band channels, auctions shall not be conducted at this time and these applications are not included on Attachment A.

4. In response to the *Comment Public Notice*, Valley Public Television, Inc. ("Valley"), an applicant for a secondary television facility in MX Group SST10, raises arguments similar to those raised prior to the Closed Broadcast Auction (Auction No. 25) concerning whether so-called "noncommercial educational" secondary television applicants should be included in this auction. Valley maintains that (i) under section 309(j)(2)(C) of the Communications Act of 1934, as amended, 47 U.S.C. 309(j)(2)(C), noncommercial applicants are exempt from auction; (ii) non-profit organizations like itself cannot afford to participate in the auction; and (iii) the Commission should use a lottery to choose between the applicants in MX Group SST10. As we stated in the *Public Notice*, DA 99-1346, released July 9, 1999 ("*July 9 Public Notice*"), in Auction No. 25, only those broadcast stations that are "eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station" are exempt from auction under sections 309(j)(2)(C) and 397(6) of the Communications Act. See *July 9 Public Notice* at 36 through 39. Because applicants for the secondary television services are not "eligible to be licensed . . . as a noncommercial educational \* \* \* television broadcast station" they are not exempt from the auction. See *Inquiry Into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System*, *Report and Order*, FCC 82-107, 47 FR 21468 (May 18, 1982), where the Commission stated that it would not license low power television and television translator stations on a noncommercial basis. Therefore, under

the mandate of section 309(j)(1) of the Communications Act, the Commission has no discretion, as Valley suggests, to exempt these applications from auction or to use an alternative method to choose between mutually exclusive applicants in the secondary television services. See 47 U.S.C. 309(j)(1).

### (iii) Daisy Chain MX Groups

5. In some, but not all, of the MX Groups listed on Attachment A, a "daisy chain" of mutual exclusivity exists whereby applications are directly mutually exclusive with certain applications in the MX Group but not others. A "daisy chain" occurs when two or more non-table, site-based applications propose service areas that do not directly overlap, but are linked together into a chain by the overlapping proposal(s) of other applicants. In such cases, the potential exists to grant more than one application and issue more than one construction permit per MX Group and remain consistent with the Commission's separation requirements relating to site-based services. The identification of "daisy chains" on Attachment A is provisional in nature, since the final configuration of groups cannot be ascertained until after the acceptance for filing of short-form (FCC Form 175) applications, at which point mutual exclusivity for auction purposes is determined. Further identification and enumeration of "Daisy Chain MX Groups" will be provided prior to the auction in the public notices announcing the status of the applications and listing qualified bidders. It is possible that some MX Groups provisionally identified here as constituting a daisy chain may, after the short-form filing deadline, become directly mutually exclusive. In such cases(s), the procedures set forth in this notice pertaining to "Direct" MX Groups become applicable.

## B. Rules and Disclaimers

### (i) Relevant Authority

6. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to broadcast auctions, contained in title 47, part 73 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions contained in this Public Notice. See also the *Comment Public Notice*, the *Broadcast First Report and Order*, the *Broadcast Reconsideration Order* 64 FR 24523 (May 7, 1999), and the *New Entrant Bidding Credit Reconsideration Order* 64 FR 44856 (August 18, 1999). Potential bidders must also familiarize



themselves with part 1, subpart Q of the Commission's Rules concerning Competitive Bidding Proceedings.

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 its public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders 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 Internet node via anonymous ftp @ftp.fcc.gov or the FCC World Wide Web site at <http://www.fcc.gov/wtb/auctions>. Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 314-3070. When ordering documents from ITS, please provide the appropriate FCC number (e.g., FCC 98-194 for the *Broadcast First Report and Order* and FCC 99-74 for the *Broadcast Reconsideration Order*).

(ii) *Prohibition of Collusion*

8. To ensure the competitiveness and integrity of the auction process, the Commission's rules prohibit applicants from communicating with each other during the auction about bids, bidding strategies, or settlements. In Auction No. 28, for example, the rule applies to all applicants within a MX Group. This prohibition becomes effective at the short-form application deadline (February 18, 2000) and ends on the post-auction down payment due date (to be determined). Bidders competing for the same construction permit(s) 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 bidders he or she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or technical consulting firm), a violation could similarly occur. At a minimum, in such a case, applicants should certify 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. *See Public Notice* 63 FR 3572 (January 23, 1998).

The Bureaus, however, caution 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. Applicants may enter into bidding agreements before filing their FCC Form 175 short-form applications, as long as they disclose the existence of the agreement(s) in their FCC Form 175 short-form applications. By electronically submitting their FCC Form 175 short-form applications, applicants are certifying their compliance with §§ 1.2105(c) and 73.5002. In addition, § 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, as promptly as possible and in any event within 30 days, of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders are therefore required to make such notification to the Commission immediately upon discovery.

(iii) *Due Diligence*

9. Potential bidders are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the facilities on which they intend to bid. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC permittee in these services, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does a FCC construction permit or license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

10. Although applicants have had an extensive opportunity to conduct due diligence due to the length of time since the filing of their long-form applications, please remember that, as is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use the broadcast spectrum to deceive and defraud unsuspecting investors.

Common warning signals of fraud include the following:

The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.

The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.

The amount of the minimum investment is less than \$25,000.

The sales representative makes verbal representations that: (a) The Internal Revenue Service, Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits.

In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

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

(iv) *Bidder Certification*

12. All applicants must certify on their short-form FCC Form 175 applications under penalty of perjury that they are:

- legally, technically, financially and otherwise qualified to hold a license, and
- not in default on any payment for Commission construction permits or licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.

Applicants should be aware that by filing their FCC Form 175 applications, they are certifying that they have long-form applications on file and that there has been no change of control of their long-form applications that would render them ineligible to participate in the auction under 47 U.S.C. 309(l) or any other applicable Commission rule.

13. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that



may result in severe penalties, including monetary forfeitures, construction permit or license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

*(v) National Environmental Policy Act (NEPA) Requirements*

14. The permittee must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a broadcast antenna facility is a federal action and the permittee must comply with the Commission's NEPA rules for each such facility. See 47 CFR 1.1305 through 1.1319. The Commission's NEPA rules require that, among other things, the permittee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The permittee must prepare environmental assessments for broadcast facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The permittee must also prepare environmental assessments for broadcast facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

**C. Auction Specifics**

*(i) Auction Date*

15. The auction will begin on March 21, 2000. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction.

*(ii) Auction Title*

16. Auction No. 28 (supplemental Closed Broadcast Auction).

*(iii) Bidder Information*

17. Information necessary to participate in Auction No. 28 is contained in this *Public Notice*, the *Comment Public Notice*, the *Broadcast First Report and Order*, the *Broadcast Reconsideration Order*, the *New Entrant Bidding Credit Reconsideration Order* and the Commission's rules. Since the notice and comment rulemaking proceeding looking toward implementation of this auction was initiated nearly two years ago and since all eligible applicants have had their long-form applications on file for an extensive period of time, no separate

Bidder Information Package will be provided. Applicants may access updated information about Auction No. 28 at the following address on WTB's web site: <http://www.fcc.gov/wtb/auctions/auc28/auc28.html> Applicants are strongly encouraged to check this site regularly for updated information regarding Auction No. 28.

*(iv) Bidding Methodology*

18. The Commission will use two separate auction designs to award broadcast construction permits. For the Daisy Chain MX Groups, an electronic single round auction will be utilized. For the Direct MX Groups, an electronic simultaneous multiple round auction will be implemented. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

*(v) Participation*

19. Those wishing to participate in the auction must: Submit a short-form application (FCC Form 175) by 5:30 p.m. ET, February 18, 2000. Submit a sufficient upfront payment and a FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, March 6, 2000.

Comply with all provisions outlined in this Public Notice and applicable Commission rules.

*(vi) Future Releases*

20. Further information regarding sequencing and length of bidding rounds and other procedural issues will be released in a future public notice.

*(vii) Pre-Auction Dates and Deadlines*

21. The following are important events and deadlines related to Auction No. 28:

Auction Seminar (free)—February 3, 2000.

Short-Form Application (FCC Form 175)—February 18, 2000; 5:30 p.m. ET.

Upfront Payments (via wire transfer)—March 6, 2000; 6:00 p.m. ET.

Orders for Remote Bidding Software—March 7, 2000.

Mock Auction—March 17, 2000.

Auction Commencement—March 21, 2000.

*(viii) List of Attachments to This Public Notice*

22. The following is a list of attachments available at the FCC:

Attachment A: Summary of Construction Permits to be auctioned, Reserve Prices, or Minimum Opening Bids, and Upfront Payments

Attachment B: Guidelines for Completion of FCC Form 175 and Exhibits

Attachment C: Auction-Specific Instructions for FCC Remittance Advice (FCC Form 159)

Attachment D: Electronic Filing and Review of FCC Form 175

Attachment E: Accessing the FCC Network Using Windows 95/98

Attachment F: FCC Remote Bidding Software Order Form

Attachment G: Summary Listing of Documents from the Commission and the Wireless Telecommunications Bureau Addressing the Application of the Anti-Collusion Rules

Attachment H: Auction Seminar Registration Form

*(ix) Contact Information*

23. The following is general contact information relating to Auction No. 28:

*General Auction Information.* General auction questions seminar registration, orders for remote bidding software. FCC Auctions Hotline: (888) CALL-FCC (888-225-5322) or direct (717) 338-2888. Hours of service: 8 a.m.—5:30 p.m. ET.

*Legal Auction Information.* rules, policies, regulations. FCC Auctions Legal Branch: (202) 418-0660.

*Licensing Information.* Rules, policies, regulations, licensing issues, due diligence, incumbency issues. FCC Mass Media Bureau: Audio licenses: (202) 418-2700; video licenses: (202) 418-1600.

*Technical Support.* Electronic filing assistance, software downloading. FCC Auctions Technical Support Hotline: (202) 414-1250 (Voice); (202) 414-1255 (TTY). Hours of service: 8 a.m.—6:00 p.m. ET.

*Payment Information.* Wire transfers, refunds. FCC Auctions Accounting Branch: (202) 418-1995, (202) 418-2843 (Fax).

*Telephonic Bidding.* Will be furnished only to qualified bidders.

*FCC Copy Contractor.* Additional Copies of Commission Documents: International Transcription Services, Inc., 445 12th Street, SW Room CY-B400, Washington, DC 20554 (202) 314-3070.

*Press Information.* Meribeth McCarrick (202) 418-0654.

*FCC Forms.* (800) 418-3676 (outside Washington, DC) (202) 418-3676 (in the Washington Area) <http://www.fcc.gov/formpage>

FCC Internet Sites. <http://www.fcc.gov>; <ftp://ftp.fcc.gov>; <http://www.fcc.gov/wtb/auctions>.

**D. Short-Form (FCC FORM 175) Application Requirements**

24. Guidelines for completion of the short-form (FCC Form 175) are set forth on Attachment B to this Public Notice. The short-form application seeks the applicant's name and address, legal classification, status, bidding credit eligibility, identification of the



construction permit sought, the authorized bidders and contact persons.

*(i) Ownership Disclosure Requirements (Form 175 Exhibit A)*

25. 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 Form 175, applicants will be required to file an Exhibit A providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules. Bidders should note that, under § 1.2112 (a)(4), the short-form must list, *inter alia*, the names, addresses and citizenship of any party holding options permitting the acquisition of a ten percent or greater equity interest in the applicant, as well as the amount and percentage held.

*(ii) Consortia and Joint Bidding Arrangements (Form 175 Exhibit B)*

26. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. *See* 47 CFR 1.2105(a)(2)(viii), 1.2105(c)(1). Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular construction permits on which they will or will not bid. *See* 47 CFR 1.2105(a)(2)(ix). In cases where applicants have entered into consortia or joint bidding arrangements, applicants must submit an Exhibit B to the FCC Form 175.

27. 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 construction permits in the same MX Group provided that (i) the attributable interest holder certify 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, bidders are reminded that certain discussions or exchanges could broach on impermissible subject matters because they may convey pricing information and bidding strategies. Such subject areas include, but are not limited to, issues such as management, sales, local marketing agreements, rebroadcast agreements and other transactional arrangements.

*(iii) New Entrant Bidding Credit (Form 175 Exhibit C)*

28. To fulfill its obligations under section 309(j) and further its long-standing commitment to the diversification of broadcast facility ownership, the Commission adopted a tiered New Entrant Bidding Credit for broadcast auction applicants with no, or very few, other media interests.

*(a) Eligibility*

29. The interests of the bidder, and of any individuals or entities with an attributable interest in the bidder, in other media of mass communications shall be considered when determining a bidder's eligibility for the New Entrant Bidding Credit. The bidder's attributable interests shall be determined as of the short-form (FCC Form 175) filing deadline—February 18, 2000. Bidders intending to divest a media interest or make any other ownership changes, such as resignation of positional interests, in order to avoid attribution for purposes of qualifying for the New Entrant Bidding Credit must have consummated such divestment transactions or have completed such ownership changes by no later than the short-form filing deadline.

30. Under traditional broadcast attribution rules, those entities or individuals with an attributable interest in a bidder include:

- All officers and directors of a corporate bidder;
  - Any owner of 5% or more of the voting stock of a corporate bidder;
  - All partners and limited partners of a partnership bidder, unless the limited partners are sufficiently insulated; and
  - All members of a limited liability company, unless insulated.
- Bidders should note that the mass media attribution rules were recently revised. *See Report and Order* 64 FR 50622 (September 17, 1999).

31. In cases where a bidder's spouse or close family member holds other media interests, such interests are not

automatically attributable to the bidder. The Commission decides attribution issues in this context based on certain factors traditionally considered relevant. *See Clarification of Commission Policies Regarding Spousal Attribution* 57 FR 8845 (March 13, 1992).

32. Bidders are also reminded that, by the *New Entrant Bidding Credit Reconsideration Order*, the Commission further refined the eligibility standards for the New Entrant Bidding Credit, judging it appropriate to attribute the media interests held by very substantial investors in, or creditors of, a bidder claiming new entrant status. Specifically, the attributable mass media interests held by an individual or entity with an equity and/or debt interest in a bidder shall be attributed to that bidder for purposes of determining its eligibility for the New Entrant Bidding Credit, if the equity and debt interests, in the aggregate, exceed 33% of the total asset value of the bidder, even if such an interest is non-voting.

33. Generally, media interests will be attributable for purposes of the New Entrant Bidding Credit to the same extent that such other media interests are considered attributable for purposes of the broadcast multiple ownership rules. However, attributable interests held by a winning bidder in existing low power television, television translator or FM translator facilities will not be counted among the bidders' other mass media interests in determining its eligibility for a New Entrant Bidding Credit. A medium of mass communications is defined in 47 CFR 73.5008 (b).

*(b) Application Requirements*

34. In addition to the ownership information required on Exhibit A, applicants are required to file supporting documentation on Exhibit C to their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify for a New Entrant Bidding Credit. In addition, in those cases where a New Entrant Bidding Credit is being sought, a certification under penalty of perjury must be set forth in Exhibit C. An applicant claiming that it qualifies for a 35 percent new entrant bidding credit must certify under penalty of perjury that neither it nor any of its attributable interest holders have any attributable interests in any other media of mass communications. An applicant claiming that it qualifies for a 25 percent new entrant bidding credit must certify under penalty of perjury that neither it nor any of its attributable interest holders have any attributable interests in more than three media of mass



communications, and must identify and describe such media of mass communications.

(c) Bidding Credits

35. Applicants that qualify for the New Entrant Bidding Credit, as set forth in 47 CFR 73.5007, are eligible for a bidding credit that represents the amount by which a bidder's winning bids are discounted. The size of a New Entrant Bidding Credit depends on the number of ownership interests in other media of mass communications that are attributable to the bidder-entity and its attributable interest-holders:

- A 35 percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has no attributable interest in any other media of mass communications, as defined in 47 CFR 73.5008;
- A 25 percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has an attributable interest in no more than three mass media facilities, as defined in 47 CFR 73.5008;
- No bidding credit will be given if any of the commonly owned mass media facilities serve the same area as the proposed broadcast station, as defined in 47 CFR 73.5007, or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, has attributable interests in more than three mass media facilities.

36. Bidding credits are not cumulative; qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both. Attributable interests are defined in 47 CFR 73.3555 and note 2 of that section. Bidders should note that unjust enrichment provisions apply to a winning bidder that utilizes a bidding credit and subsequently seeks to assign or transfer control of its license or construction permit to an entity not qualifying for the same level of bidding credit.

**E. Other Information (Form 175 Exhibits D & E)**

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

so in Exhibit E-Miscellaneous Information—to the FCC Form 175.

**F. Minor Modifications to Short-Form FCC Form 175 Applications**

38. After the short-form filing deadline (February 18, 2000), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their construction permit selections or proposed service areas, change the certifying official or change control of the applicant or change bidding credits). See 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these changes on-line, and submit a letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Suite 4-A760 Washington, DC 20554, briefly summarizing the changes. Questions about other changes should be directed to Jose Ochoa of the FCC Auctions and Industry Analysis Division at (202) 418-0660.

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

39. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application. Applicants should also be aware that failure to report ownership changes rendering them ineligible to participate in the auction under section 309(l)(2) and applicable Commission rules, even if that failure is inadvertent, could result in serious financial penalties if they participate in competitive bidding and win a construction permit. These include default payments and revocation of construction permit(s) or license(s). § 1.65 amendments to pending long-form applications, however, should be filed after the auction and only by the winning bidder. The time for the filing of such amendments to the auction winners' long form applications will be announced by subsequent Public Notice.

**H. Pre-Auction Procedures**

(i) *Short-Form Application (FCC Form 175)—Due February 18, 2000, 5:30 p.m. ET*

40. In order to be eligible to bid in this auction, applicants must first electronically submit a FCC Form 175 application. This application must be received at the Commission by 5:30 p.m. ET on February 18, 2000. Late applications will not be accepted.

41. There is no application fee required when filing a FCC Form 175. However, to purchase bidding eligibility, an applicant must submit an upfront payment. See section 3.C, *infra*.

(a) Electronic Filing

42. As of January 1, 1999, applications to participate in FCC auctions must be filed electronically. See *Part 1 Third Report and Order* 63 FR 770 (January 7, 1998). For Auction No. 28, applicants may file applications electronically beginning February 3, 2000. The system will generally be open for filing on a 24-hour basis. The Form 175 filing window will remain open until 5:30 p.m. ET on February 18, 2000. Applicants are strongly encouraged to file early, and applicants 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 February 18, 2000. Technical support is available at (202) 414-1250 (voice) or (202) 414-1255 (text telephone (TTY)); the hours of service are 8 a.m.—6 p.m. ET, Monday—Friday. Information about the electronic filing of the FCC Form 175 application is included as Attachment D to this Public Notice.

(b) Completion of the FCC Form 175

43. Applicants should carefully review 47 CFR 1.2105 and 73.5002 and must complete all items on the FCC Form 175. Applicants should not consider their form submitted to the FCC until they press the "Submit Form 175" button on the "Submit" page and receive confirmation from the filing system that the form has been received by the Commission. Instructions for completing the FCC Form 175 are on Attachment B of this Public Notice.

(c) Electronic Review of FCC Form 175

44. The FCC Form 175, review software may be used to review and print applicants' FCC Form 175 applications. Applicants may review their own completed FCC Form 175. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice



explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any Exhibits to their FCC Form 175 applications. There are no fees for accessing this system or for submitting a FCC Form 175. Instructions for reviewing the FCC Form 175 are provided on Attachment D to this Public Notice.

*(ii) Application Processing and Minor Corrections*

45. After the deadline for filing FCC Form 175 applications has passed, the FCC will process all timely submitted short-form applications to determine which are acceptable for filing and which are mutually exclusive. The Commission will subsequently issue a public notice identifying: (i) Those short-form applications that are acceptable for filing and are mutually exclusive (including FCC file numbers and the construction permits for which they applied); (ii) those applications rejected; and (iii) those short-form applications that have minor defects that may be corrected, and the deadline for filing such corrected applications. In each MX Group, the construction permit(s) will be auctioned if two or more short-form applications are accepted for filing. In any MX Group for which only one short-form application is accepted for filing, the construction permit will be removed from the auction and the related long-form application (FCC Forms 301 and 349) will be processed, and, if acceptable, will be granted.

*(iii) Upfront Payments—Due March 6, 2000*

46. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by a FCC Remittance Advice Form (FCC Form 159). Applicants will have access to filling out an electronic version of the FCC Form 159 (July 1997 version) after completing the electronic FCC Form 175; however, the FCC Remittance Advice Form (FCC Form 159) must be printed and submitted by facsimile transmission to Mellon Bank in accordance with the instructions herein. Earlier versions of this form will not be accepted. All upfront payments must be received at Mellon Bank in Pittsburgh, Pennsylvania, by 6:00 p.m. ET on March 6, 2000.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.

- Upfront payments for Auction No. 28 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.

- Failure to deliver the upfront payment by the March 6, 2000 deadline will result in no bidding eligibility being accorded the applicant.

*(a) Making Auction Payments by Wire Transfer*

47. Wire transfer payments must be received by 6 p.m. ET on March 6, 2000. 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. As the Commission is not accountable for the acts of an applicant's bank, bidders are urged to confirm before the deadline that their wire transfer payments have been properly and timely transmitted by their bank to Mellon Bank. Applicants will need the following information:

ABA Routing Number: 043000261  
Receiving Bank: Mellon Pittsburgh  
BNF: FCC/ACC 910-0198  
OBI Field: (Skip one space between each information item)  
"AUCTION PAY"  
TAXPAYER IDENTIFICATION NO.  
(same as FCC Form 159, block 26)  
PAYMENT TYPE CODE (enter "A28U")  
FCC CODE 1 (same as FCC Form 159, block 23A: "28")  
PAYER NAME (same as FCC Form 159, block 2)  
LOCKBOX NO 358410

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

48. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 236-5702 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. 28." Bidders are strongly encouraged to confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

*(b) FCC Form 159*

49. A completed FCC Remittance Advice Form (FCC Form 159) must accompany each upfront payment. Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are

included in this Public Notice as Attachment C.

*(c) Amount of Upfront Payment*

50. In the *Broadcast First Report and Order*, the Commission delegated to the Bureaus the authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned. *See Order, Memorandum Opinion and Order and Notice of Proposed Rule Making* 62 FR 13540 (March 21, 1997). In the *Comment Public Notice*, the Bureaus proposed certain upfront payments as set forth on Attachment A. No comments were received concerning such upfront payments. We therefore adopt our proposed upfront payment amounts for Auction No. 28.

51. In calculating the upfront payment amount, an applicant should determine the maximum number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

**Note:** An applicant potentially eligible to bid in more than one MX Group may, on its FCC Form 175, indicate an intent to bid on every construction permit for which an underlying long-form has been filed, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

**I. Auction Registration**

52. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for Auction No. 28. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and that have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the construction permits for which their application was accepted.

53. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

54. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Thursday, March 16, 2000 should contact the Auctions Hotline at (888) 225-5322



(888-CALL-FCC) (press option #2 at the prompt) or dial directly to (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

55. Qualified bidders should note that lost login codes, passwords or bidder identification numbers can be replaced only by appearing in person at the FCC Auction Headquarters located at 445—12th Street, 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 replacement codes. Bidders needing replacement codes must call technical support at 202-414-1250 prior to arriving at the FCC.

#### J. Remote Electronic Bidding Software

56. Qualified bidders are strongly encouraged to bid electronically. Due to the fact that potential bidders have already paid substantial fees in connection with the filing of their long-form applications, the software packages required to participate in remote electronic bidding will be provided on request at no charge to the bidders in Auction No. 28. These software packages must be ordered by March 7, 2000. While bidders are free to copy the software for use by authorized bidders at different locations, the FCC auction system will accept electronic bids only from bidders who have requested the software. (Auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 28.) A software order form is included as Attachment F to this Public Notice.

#### K. Mock Auction (March 17, 2000)

57. All qualified bidders will be eligible to participate in a mock auction on March 17, 2000. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by Public Notice.

#### L. Auction Event

58. The first round of the auction will begin on March 21, 2000. The initial round schedule will be announced in a Public Notice listing the qualified bidders to be released approximately 10 days before the start of the auction.

#### (i) Auction Structure

59. In the *Comment Public Notice*, the Commission proposed two separate auction designs to award these construction permits, one for the Daisy Chain MX Groups and one for the Direct MX Groups. The following auction designs will be utilized.

##### (a) Single Round Auction Design

60. For *Daisy Chain MX Groups*, we proposed a single round in which each bidder must place a bid that meets or exceeds the established reserve price, in whole dollar amounts. No comments were received concerning this proposed auction design.

61. We therefore conclude that utilizing an electronic single round auction will award the construction permits in Auction No. 28 that are in Daisy Chain MX Groups. The determination of the winning bidder in each of the Daisy Chain MX Groups shall be made by finding the set of bids on non-overlapping coverage areas that accrue to the greatest amount. For example, consider the case of an MX Group consisting of a "daisy chain" of three potential bidders (Bidders 1, 2 and 3) interested in three construction permits in the MX Group (respectively Construction Permits A, B and C) such that A is MX'ed with B and B is MX'ed with C. This means that either A and C can both be assigned or B can be assigned, but not A and B, B and C or A, B and C. In order for Bidder 2 to win construction permit B, its bid would have to exceed the combined bids of Bidders 1 and 3 on construction permits A and C, respectively. All bids will be time-stamped and in the case of tie bids, the first complete combination of bids placed first in time shall be considered the winning bid combination. We have concluded that the disposition of the permits for the Daisy Chain MX Groups in this manner is most appropriate because of the complexity of their overlapping nature.

##### (b) Simultaneous Multiple Round Auction Design

62. For *Direct MX Groups*, we proposed a single stage, simultaneous multiple round auction. No comments were received concerning this proposed auction design.

63. We therefore conclude that the construction permits in Auction No. 28 for the Direct MX Groups will be awarded through a single, simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on each of these construction permits in each round of this auction. This approach, we believe, allows for a

more efficient auction process and, in cases where bidders are eligible to participate in multiple markets, allows them to take advantage of any synergies that exist among construction permits.

#### (c) Maximum Eligibility and Activity Rules

64. In the *Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder. No comments were received concerning the eligibility rule.

65. We adopt the maximum eligibility proposal for Auction No. 28. The amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. Note again that upfront payments are not attributed to specific construction permits, but instead will be translated into bidding units to define a bidder's initial maximum eligibility. The total upfront payment defines the maximum number of bidding units on which the applicant will initially be permitted to bid.

66. For *Direct MX Groups*, 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 waiting until the end to participate. Bidders are required to be active on 100 percent of their maximum eligibility during each round of the auction.

67. A bidder is considered active on a construction permit in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (see "Minimum Accepted Bids" in section 4.B. (3), *infra*). A bidder's activity level in a round is the sum of the bidding units associated with construction permits on which the bidder is active. Required minimum activity levels ensure that an auction will proceed expeditiously and efficiently. Because such procedures have proven successful in maintaining the pace of previous auctions, we adopt them for Auction No. 28.

68. For *Daisy Chain MX Groups*, because of the single round format, activity rules are not applicable.

#### (d) Activity Rule Waivers, Reducing Eligibility and Stopping Rules

69. For *Direct MX Groups*, in the *Comment Public Notice*, we proposed that each bidder in the auction would be provided five activity rule waivers that may be used in any round during the



course of the auction. We also proposed to employ a simultaneous stopping rule, meaning that all construction permits would remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals were received. We sought comment on a modified version of this rule, in which the auction would close for all construction permits after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any construction permit on which it is not the standing high bidder. We further proposed to retain the discretion to keep the auction open, even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. Finally, we proposed to reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"), meaning that the Bureaus would accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. We proposed to exercise this option 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. No comments were received on this proposal.

70. Based upon our experience in previous auctions, we adopt our proposals and each bidder will be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

71. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the "reduce

eligibility" function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

72. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

73. Barring extraordinary circumstances, bidding will remain open on all construction permits until bidding stops on every construction permit. Thus, the auction will close for all construction permits when one round passes during which no bidder submits a new acceptable bid on any construction permit, applies a proactive waiver, or withdraws a previous high bid. In addition, however, the Bureaus retain the discretion to close the auction for all construction permits after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

74. The Bureaus retain the discretion however, to keep an auction open even if no new acceptable bids or proactive waivers are submitted, and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

75. Further, in their discretion, the Bureaus reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the FCC invokes this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. The FCC intends to exercise this option only in extreme 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 this option, the FCC 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 construction permits where there is still a high level of bidding activity.

76. For *Daisy Chain MX Groups*, because of the single round format, activity rule waivers and reducing eligibility are not applicable. In the *Comment Public Notice*, we proposed to conduct a single round of bidding and declare the auction over at the conclusion of the two-hour bidding period. No comments were received on this issue.

(e) Auction Delay, Suspension, or Cancellation

77. In the *Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureaus 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. We received no comments on this proposal.

78. Because this approach has proven effective in resolving exigent circumstances in previous auctions, we will adopt our proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureaus 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 Bureaus, in their 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 Bureaus to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.



*(ii) Bidding Procedures**(a) Round Structure*

79. The initial bidding schedule will be announced in the Qualified Bidder Public Notice at least one week before the start of the auction, and will be included in the registration mailings.

80. For *Daisy Chain MX Groups*, a single two-hour bidding round will be conducted after which the auction will close.

81. For *Direct MX Groups*, the simultaneous multiple round formats will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the Qualified Bidder Public Notice.

82. 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 FCC 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.

*(b) Reserve Price or Minimum Opening Bid*

83. The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses or construction permits are subject to auction (*i.e.*, because the applications are mutually exclusive), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureaus to seek comment on the use of minimum opening bids and/or reserve prices prior to the start of each broadcast auction. *See Part 1 Third Report and Order*, 63 FR 2315 (January 15, 1998). This is consistent with policy applied in earlier spectrum auctions, including the recently completed Closed Broadcast Auctions. The Commission has concluded that either or both of these mechanisms may be employed for auctions and has delegated the requisite authority to make determinations regarding the appropriateness of employing either or both.

84. The Bureaus proposed to establish reserve prices for the *Daisy Chain MX Groups* and minimum opening bids for *Direct MX Groups*. The Bureaus also sought comment on whether, consistent with the Budget Act, the public interest

would be served by having no minimum opening bid or reserve price.

85. A comment was received by Irene Rodriguez Diaz de McComas ("McComas") addressing the minimum opening bid for Channel 247A, Rio Grande, Puerto Rico, MX Group FM 1. McComas specifically objects to the minimum opening bid amount established for the Rio Grande construction permit in light of the potential conflict between the Channel 247A allotment at Rio Grande, Puerto Rico and a 100kw station operating on channel 247 in the British Virgin Islands, as noted in the *1990 Hearing Designation Order* setting the mutually exclusive Rio Grande applicants for comparative hearing. McComas contends that the uncertainty regarding interference forecloses a fair evaluation of the frequency. However, as discussed in the December 15, 1999 staff letter addressing the issue, the matter has since been resolved, and there remains neither a cloud over the Rio Grande allotment, nor a need for further Commission pronouncement on the matter.

86. Therefore, we adopt the reserve prices proposed for the construction permits in *Daisy Chain MX Groups* and reducible minimum opening bids proposed for construction permits in the *Direct MX Groups* as listed on Attachment A. Reducible minimum opening bids for the *Direct MX Groups* will allow the Bureaus flexibility to adjust the minimum opening bids if circumstances warrant. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction. During the course of the auction, the Bureaus will not entertain any bidder requests to reduce the reserve price or minimum opening bid on specific construction permits.

*(c) Bidding*

87. All bidding will take place either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when handling 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, because four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 28.

88. A bidder's ability to bid on specific construction permits in the first round of the auction is determined by two factors: (1) the construction permits applied for on FCC Form 175; and (2) the upfront payment amount deposited. The bid submission screens will be

tailored for each bidder to include only those construction permits for which the bidder applied on its FCC Form 175.

89. The bidding software requires each bidder to login to the FCC auction system during the bidding round using the FCC account number, bidder identification number, and the confidential security codes provided in the registration materials. Bidders are strongly encouraged to download and print bid confirmations *after* they submit their bids.

90. For both *Daisy Chain MX Groups* and *Direct MX Groups*, a bidder may submit bids on any licenses for which it is eligible during a bidding round. Bidders also have the option of making multiple submissions and withdrawals in the bidding 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 and the date- and time-stamp of that bid reflects the latest time the bid was submitted. For the *Direct MX Groups* only, a bidder may withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility.

91. For *Daisy Chain MX Groups*, the bid entry screen of the Automated Auction System software for the Auction No. 28 allows bidders to place a bid that is equal to or greater than the established reserve price in a whole dollar amount.

92. For *Direct MX Groups*, the bid entry screen of the Automated Auction System software for Auction No. 28 allows bidders to place multiple increment bids that will let bidders increase high bids from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for each construction permit.

93. To place a bid on a particular construction permit, the bidder must enter a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

$$\text{Amount Bid} = \text{High Bid} + (\text{Bid Mult} * \text{Bid Increment})$$

Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is equal to one bid increment, a bidder



will enter "1" in the bid increment multiplier column and press submit.

94. For any construction permit on which the FCC is designated as the high bidder (*i.e.*, a construction permit that has not yet received a bid in the auction or where the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases no increment exists, and bidders should enter "1" in the Bid Mult field. Note that, in such cases, when the FCC is the designated high bidder any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount. Finally, bidders are cautioned in entering numbers in the Bid Mult field because, as explained in the following section, a high bidder that withdraws its standing high bid from a previous round, even if mistakenly or erroneously made, is subject to bid withdrawal payments.

#### (d) High Bids

95. For *Direct MX Groups*, each bid will be date-and time-stamped when it is entered into the Auctions Automation System. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which the Commission, starting with the earliest bid receives bids. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date and time-stamped according to when it was submitted, bids submitted by a bidder earlier in a round will have an earlier date-and time-stamp than bids submitted later in a round.

96. For *Daisy Chain MX Groups*, the high bid will be determined as set forth herein in section 4.A.1 of this Public Notice.

#### (e) Bid Increments

97. For *Daisy Chain MX Groups*, because of the single round auction design, bid increments are not applicable.

98. For *Direct MX Groups*, in the *Comment Public Notice*, the Bureaus proposed to begin the bid level with established minimum opening bids and then apply a minimum bid increment of 10%, rounded to the nearest hundred dollars for high bids below \$10,000.00 and rounded to the nearest thousand dollars for high bids of \$10,000.00 or higher. No comments were received. We adopt the proposal contained in the *Comment Public Notice*.

99. The Bureaus retain the discretion to change the minimum bid increment if they determine those circumstances

so dictate. For example, the Bureaus may raise the minimum bid increment towards the end of the auction to speed the pace at which bids reach their final values. The Bureaus will do so by announcement in the Automated Auction System. In addition, the Bureaus retain the discretion to implement a dollar floor for the bid increment to further facilitate a timely close of the auction.

100. Once there is a standing high bid on a construction permit, there will be a bid increment associated with that bid indicating the minimum amount by which the bid on that permit can be raised. For the Auction No. 28, we will use a flat, across-the-board increment of 10% to calculate minimum bid increments. The Bureaus retain the discretion to compute the minimum bid increment through other methodologies if it determines circumstances so dictate.

#### (f) Bid Removal and Bid Withdrawal

101. For *Daisy Chain MX Groups*, bidders have the option to remove any bids placed before the end of the bidding round. A bidder removing a bid is not subject to withdrawal payments. Bid withdrawals (*i.e.*, after the close of the single round), however, are not applicable to the single round auction.

##### (i) Procedures for Direct MX Groups.

102. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the software, 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. This procedure will enhance bidder flexibility and, we believe, may serve to expedite the course of the auction.

103. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the "withdraw bid" function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g) and 1.2109.

104. In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various

construction permits in combination, we conclude that, for Auction No. 28, adoption of a limit on their use to two rounds. By doing so, we believe we strike a reasonable compromise that will allow bidders to use withdrawals.

105. The Bureaus will therefore limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g), and 1.2109. Bidders are reminded that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a construction permit.

106. If a high bid is withdrawn, the construction permit will be offered in the next round at the second highest bid price, which may be less than, or equal to (in the case of tie bids), the amount of the withdrawn bid, without any bid increment. The FCC will serve as a "place holder" on the construction permit until a new acceptable bid is submitted on that permit.

##### (ii) Withdrawal Payment Calculations for Direct MX Groups.

107. Generally, a bidder that withdraws a standing high bid during the course of an auction will be subject to a payment equal to the lower of: (1) The difference between the net withdrawn bid and the subsequent net winning bid; or (2) the difference between the gross withdrawn bid and the subsequent gross winning bid for that construction permit. In the case of multiple withdrawals on a construction permit, the payment for the final withdrawer (*i.e.*, that bidder who is the last bidder to withdraw before the license is won in an auction) will be computed as described herein. The payment for all other withdrawers will be computed as the lower of: (i) Either the difference between the net withdrawn bid and the highest of the subsequent net withdrawn bids or the difference between the net withdrawn bid and the subsequent net winning bid, whichever is less; or (ii) either the difference between the gross withdrawn bid and the highest of the subsequent gross withdrawn bids or the difference between the gross withdrawn bid and the subsequent gross winning bid, whichever is less. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent gross or net winning bid or if any of the subsequent gross or net withdrawn bids exceed the gross or net amount of the withdrawn bid. In the event that a



construction permit for which there have been withdrawn bids is not won in the auction, then those bidders with outstanding withdrawals will have 3 percent of their withdrawn bid withheld until such time as the construction permit can be subject to competitive bidding in a subsequent auction and a final payment assigned. For further guidance, please refer to §§ 1.2104 and 1.2109 of the Commission's rules. We adopt the proposed procedures for bid removal and bid withdrawal.

(g) Round Results

108. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 28 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.

109. For *Daisy Chain MX Groups*, the auction results will be published at the conclusion of the single bidding round. The FCC will compile reports, which will include a list of all bids placed and high bidders for the designated permits.

110. For *Direct MX Groups*, the bids placed during each bidding period are not published until the conclusion of that round. The FCC will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Instructions for accessing the Round Results will be included in the Qualified Bidder Public Notice.

(h) Auction Announcements

111. The FCC will use auction announcements to announce items such as schedule changes and round sequences and length. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as the Internet.

**N. Post-Auction Procedures**

*(i) Down Payments and Withdrawn Bid Payments*

112. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bids and bidders for each permit, and listing withdrawn bid payments due, if any.

113. Within ten business days after release of the auction closing public 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 Government to 20 percent of its net winning bids (actual bids less any

applicable bidding credits). See 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any withdrawn bid amounts due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," Part 4.B. (6), *supra*. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

*(ii) Default and Disqualification*

114. 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 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 offer the construction permit to the next highest bidder (in descending order) at their final bid, or offer the spectrum in a later auction. See 47 CFR 1.2109(b) and (c). 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 construction permits or licenses held by the applicant. See 47 CFR 1.2109(d).

*(iii) Applicant's Wire Transfer Information for Purposes of Refunds*

115. To ensure that refunds are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed herein be supplied to the FCC. Once the request has been approved, a refund will be sent to the address provided on the FCC Form 159. Refund processing generally takes up to two weeks to complete. Should the payor fail to submit the requested information, the refund will be returned automatically to the original payor by check after 45 days of the closing of the auction. The Commission will use wire transfers for all Auction No. 28 refunds, under the condition that we have received proper instructions by the designated date. Please fax wire transfer instructions to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Michelle Bennett or Gail Glasser at (202) 418-2843.

Please include the following information:

Applicant's Name & TIN #  
Name and Address of Bank  
ABA Number  
Contact and Phone Number

Name of Account Holder  
Address of Account Holder  
Account Number to Credit  
Correspondent Bank (if applicable)  
ABA Number  
Account Number

(Applicant's name, signature and date are required in order to process refund request. Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain an applicant's Taxpayer Identification Number (TIN) before it can disburse refunds.)

*(iv) Partial Refund of Remaining Upfront Payment Balance*

116. All applicants that submitted upfront payments but were not winning bidders for a construction permit in Auction No. 28 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 that applicant after any applicable bid withdrawal payments have been paid.

117. Direct MX Group bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. However, bidders that reduce their eligibility and remain in the auction are not eligible for partial refunds of upfront payments until the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request which includes wire transfer instructions and a Taxpayer Identification Number ("TIN") to: Federal Communications Commission, Auctions Accounting Branch, Attn: Michelle Bennett and Gail Glasser, 445 12th Street, SW, Room 1-A824, Washington, DC 20554

118. Bidders can also fax their request to the Auctions Accounting Branch at (202) 418-2843. Once the request has been approved, a refund will be sent to the address provided on the FCC Form 159. Refund processing generally takes up to two weeks to complete.

**O. Contacts**

119. The following is a list of FCC contacts:

*Media Contact:* Meribeth McCarrick at (202) 418-0654.

*Wireless Telecommunications Bureau:* Auctions and Industry Analysis Division: Jose Ochoa, Legal Branch or Ruby Hough, Auctions Operations Branch, at (202) 418-0660, or Kathy



Garland or Bob Reagle, Auctions Operations Branch, at (717) 338-2888.  
*Mass Media Bureau:* Video Services Division: Shaun Maher at (202) 418-2324 Audio Services Division: Lisa Scanlan at (202) 418-2700  
*Office of Managing Director:* Financial Operations: Michelle Bennett or Gail Glasser at (202) 418-1995.

Federal Communications Commission.

**Louis J. Sigalos,**

*Deputy Chief, Auctions & Industry Analysis Division.*

[FR Doc. 00-6323 Filed 3-13-00; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

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

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Procedures for Monitoring Bank Protection Act Compliance."

**DATES:** Comments must be submitted on or before May 15, 2000.

**ADDRESSES:** Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898-7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. All comments should refer to "Procedures for Monitoring Bank Protection Act Compliance." Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898-3838; Internet address: [comments@fdic.gov](mailto:comments@fdic.gov)].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Tamara R. Manly, at the address identified above.

### SUPPLEMENTARY INFORMATION:

#### Proposal To Renew the Following Currently Approved Collection of Information

*Title:* Procedures for Monitoring Bank Protection Act Compliance.

*OMB Number:* 3064-0095.

*Frequency of Response:* Annually.

*Affected Public:* All financial institutions.

*Estimated Number of Respondents:* 5,800.

*Estimated Time per Response:* 1/2 hour.

*Estimated Total Annual Burden:* 2,900 hours.

*General Description of Collection:* The collection requires insured state nonmember banks to comply with the Bank Protection Act and to review bank security programs.

#### Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 8th day of March, 2000.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 00-6232 Filed 3-13-00; 8:45 am]

**BILLING CODE 6714-01-U**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

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

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Notification of Changes in Insured Status."

**DATES:** Comments must be submitted on or before May 15, 2000.

**ADDRESSES:** Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898-7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. All comments should refer to "Notification of Changes in Insured Status." Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898-3838; Internet address: [comments@fdic.gov](mailto:comments@fdic.gov)].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Tamara R. Manly, at the address identified above.

### SUPPLEMENTARY INFORMATION:

#### Proposal To Renew the Following Currently Approved Collection of Information

*Title:* Notification of Changes in Insured Status.

*OMB Number:* 3064-0124.

*Frequency of Response:* On occasion.

*Affected Public:* Insured depository institutions.

*Estimated Number of Respondents:* 943.

*Estimated Time per Response:* 1/4 hour.