

**B. Long-Form Application**

116. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application and required exhibits for each 800 MHz license won through the auction. Winning bidders that are small businesses or very small businesses must include an exhibit demonstrating their eligibility for bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

**C. Default and Disqualification**

117. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at their final bid. *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 licenses held by the applicant. *See* 47 CFR 1.2109(d).

**D. Refund of Remaining Upfront Payment Balance**

118. All applicants that submitted upfront payments but were not winning bidders for a 800 MHz license 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.

119. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification Number ("TIN"). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions

Accounting Group, Shirley Hanberry, 445 12th Street, SW, Room 1-A824, Washington, DC 20554.

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

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Michelle Bennett or Gail Glasser at (202) 418-1995.

Federal Communications Commission

**Louis J. Sigalos,**

*Deputy Chief, Auctions & Industry Analysis Division.*

[FR Doc. 00-16117 Filed 6-23-00; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[DA-00-1184]

**Telecommunications Services Between the United States and Cuba**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** On May 25, 2000, the Commission approved the application of Sprint Communications Company, L.P. (Sprint) to acquire and operate additional satellite facilities for provision of service between the United States and Cuba. This application includes upgrade of an existing private line circuit between an authorized international earth station in New Jersey and INTELSAT's Atlantic Ocean Region satellite. Sprint is currently authorized by the Commission to provide service directly to Cuba.

The Commission has authorized Sprint to provide service between the United States and Cuba in accordance with the provisions of the Cuban Democracy Act. This will help meet the demand for direct telecommunications services between the United States and Cuba. Under the guidelines established by the Department of State, Sprint is to submit reports indicating the numbers of circuits activated by facility, on or before June 30, and December 31 of each year, and on the one year anniversary of this notification in the **Federal Register**. The authorization is, however, subject to revocation if the Department of State or the Federal Communications

Commission determines that Sprint's continued provision of communications services to Cuba no longer serves the national interest.

**FOR FURTHER INFORMATION, CONTACT:** J. Breck Blalock, Chief, Policy and Facilities Branch, (202) 418-1460 or Justin Connor, Attorney Advisor, Policy and Facilities Branch, (202) 418-1476.

Dated: June 20, 2000.

Federal Communications Commission.

**Rebecca Arbogast,**

*Chief, Telecommunications Division, International Bureau.*

[FR Doc. 00-16118 Filed 6-23-00; 8:45 am]

**BILLING CODE 6712-01-U**

**FEDERAL COMMUNICATIONS COMMISSION**

[Report No. AUC-00-80-B (Auction No. 80); DA 00-1226]

**Auction Notice and Filing Requirements for a New Television Station Construction Permit, Channel 52 at Blanco, TX; Auction Scheduled for July 12, 2000; Minimum Opening Bids and Other Procedural Issues**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction and procedures governing the auction of licenses for a new television station construction permit at Blanco, Texas ("Auction No. 80"), scheduled to commence on July 12, 2000.

**DATES:** Auction No. 80 is scheduled for July 12, 2000.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Burnley, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660; Shaun Maher, Audio Services Division, Mass Media Bureau, at (202) 418-2324.

**SUPPLEMENTARY INFORMATION:** This is a summary of a public notice released June 5, 2000 ("Auction Public Notice"). The complete text, including all attachments, of the Auction Public Notice 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 20035, (202) 857-3800. It is also available on the Commission's website at <http://www.fcc.gov/wtb/auctions>.

## I. General Information

### A. Introduction

1. The *Auction Public Notice* announces the procedures and minimum opening bid for the upcoming auction of a construction permit for Channel 52 at Blanco, Texas ("Auction No. 80"). On May 12, 2000, the Mass Media Bureau ("MMB") and the Wireless Telecommunications Bureau ("WTB") (collectively, the "Bureaus") released the *Auction No. 80 Comment Public Notice*, seeking comment on the establishment of reserve price and/or minimum opening bid for Auction No. 80, in accordance with the Balanced Budget Act of 1997. See Auction of Construction Permit For New Television Station Channel 52 at Blanco, Texas Scheduled for July 12, 2000; Comment Sought on Reserve Price or Minimum Opening Bid and Other Auction Procedural Issues, *Public Notice*, DA 00-1069 (released May 12, 2000) ("Auction No. 80 Comment Public Notice"). See also section 3002(a), Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251 (1997) ("Budget Act"); 47 U.S.C. 309(j)(4)(F). In addition, the Bureaus sought comment on a number of procedures to be used in Auction No. 80. The Bureaus received no comments in response to the *Auction No. 80 Comment Public Notice*.

#### i. Construction Permit To Be Auctioned

2. The construction permit available in Auction No. 80 is for a new analog, full-power, television station on Channel 52 at Blanco, Texas. This construction permit is the subject of pending, mutually exclusive short-form applications (FCC Form 175) and participation in this auction is limited to the applicants identified in Attachment A of the *Auction Public Notice*. The minimum opening bid and upfront payment for this construction permit are also included on Attachment A of the *Auction Public Notice*.

### B. Rules and Disclaimers

#### i. Relevant Authority

3. 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 the *Auction Public Notice*, the *Auction No. 80 Comment Public Notice*, the *Broadcast First Report and Order* (see Implementation of Section 309(j) of the Communications Act—

Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, *First Report and Order*, 63 FR 48615 (September 11, 1998) ("*Broadcast First Report and Order*"), the *Broadcast Reconsideration Order* (see Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 64 FR 56974 (October 22, 1999) ("*Broadcast Reconsideration Order*")), and the *New Entrant Bidding Credit Reconsideration Order* (see Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 64 FR 44856 (August 18, 1999) ("*New Entrant Bidding Credit Reconsideration Order*")). Potential bidders must also familiarize themselves with part 1, subpart Q of the Commission's rules concerning competitive bidding proceedings.

4. The terms contained in the Commission's rules, relevant orders and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to 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 Auctions 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.

#### ii. Prohibition of Collusion

5. Bidders are reminded that § 1.2105(c) of the Commission's rules prohibits short-form applicants from communicating with each other during the auction about bids, bidding strategies, or settlements unless they have identified each other as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii). See 47 CFR 1.2105(c). For Auction No. 80, this prohibition became effective at

the short-form application deadline (February 1, 2000) and will end on the down payment due date after the auction (to be announced in a future public notice). Applicants certified compliance with 47 CFR 1.2105(c) when they signed their short-form applications. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

6. Bidders in Auction No. 80 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/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 consulting firm), a violation could similarly occur.

7. In addition, § 1.65 of the Commission's rules require an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. See 47 CFR 1.65. Thus, § 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules immediately upon learning of such violation. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment E of the *Auction Public Notice*.

#### iii. Due Diligence

8. Potential bidders are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the Blanco television facility. 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 the broadcast service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, 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.

9. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 80 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 80 are strongly encouraged to continue such research during the auction.

10. Potential bidders should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service. In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service. See Establishment of a Class A Television Service, MM Docket No. 00-10, *Report and Order*, 65 FR 29985 (May 10, 2000) ("*Class A Report and Order*"). In the *Class A Report and Order*, the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations. Given the Commission's ruling in the *Class A Report and Order*, the winning bidder in the auction for the new full power television station on Channel 52 at Blanco, Texas, upon submission of its long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate a full power television station on Channel 52 at Blanco, Texas. Information about the identity and location of Class A television stations is available from the Mass Media Bureau's Consolidated Database System (CDBS) (public access available at: <http://www.fcc.gov/mmb>) and on the Mass Media Bureau's Class A television web page: <http://www.fcc.gov/mmb/vsd/files/classa.html>.

#### iv. Bidder Alerts

11. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 80 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 ("IRS"), Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

12. 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 National Call Center at (888) CALL-FCC ((888) 225-5322).

#### v. National Environmental Policy Act (NEPA) Requirements

13. 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 1.1305-1.1319. 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 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 facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

#### C. Auction Specifics

##### i. Auction Date

14. Auction No. 80 will begin on July 12, 2000. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding will be conducted on each business day until bidding has stopped on the construction permit.

##### ii. Auction Title

15. Auction No. 80—Blanco, Texas Broadcast

##### iii. Bidding Methodology

16. The bidding methodology for Auction No. 80 will be a multiple-round, ascending auction. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

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

- Auction Seminar—June 16, 2000
- Upfront Payments (via wire transfer)—June 26, 2000; 6 p.m. ET
- Orders for Remote Bidding Software—June 26, 2000; 5:30 p.m. ET
- Mock Auction—July 10, 2000
- Auction Begins—July 12, 2000

##### iv. Requirements for Participation

17. Those wishing to participate in the auction must:

- Be listed on Attachment A of this public notice.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, June 26, 2000.
- Comply with all provisions outlined in this public notice.

##### v. General Contact Information

- FCC Auctions Hotline: (888) 225-5322, Press Option #2 or direct (717) 338-2888. Hours of service: 8 a.m.—5:30 p.m. ET.
- Auction Legal Information: Auctions and Industry Analysis Division, Legal Branch (202) 418-0660.
- Licensing information: Mass Media Bureau, Video Services Division: (202) 418-1600.
- FCC Auctions Technical Support Hotline: (202) 414-1250 (Voice), (202) 414-1255 (TTY). Hours of service: 8 a.m.—6 p.m. ET.
- Payment Information: FCC Auctions Accounting Branch: (202) 418-1995.
- FCC Copy Contractor: 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 Internet Sites:

<http://www.fcc.gov/wtb/auctions>  
<http://www.fcc.gov>  
<ftp://ftp.fcc.gov>

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

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

18. Applicants may make only minor changes to their short-form applications. Applicants are not permitted to make major modifications to their applications (e.g., 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), fax number, and revision of exhibits. Applicants should notify the Commission of these changes in 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. A separate copy of the letter should be mailed to Kenneth Burnley, Auctions and Industry Analysis Division. After the Bureau's release of a public notice listing the qualified bidders in Auction No. 80, applicants should make these changes to their short-form applications on-line. Questions about other changes should be directed to Kenneth Burnley at (202) 418-0660.

### B. Maintaining Current Information in Short-Form Applications

19. 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 short-form 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 short-form application.

## III. Pre-Auction Procedures

### A. Auction Seminar

20. On June 16, 2000, the FCC will sponsor a free seminar for Auction No. 80 at the Federal Communications Commission, located at 445 12th Street, S.W. (Room 2-B516), Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the broadcast service and auction rules. To register, complete the registration form included as Attachment B of this public notice and submit it by Wednesday,

June 14, 2000. Registrations are accepted on a first-come, first-served basis.

### B. Upfront Payments—Due June 26, 2000

21. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). FCC Form 159 must be completed manually and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6 p.m. ET on June 26, 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. 80 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 June 26, 2000 deadline will result in dismissal of the application and disqualification from participation in the auction.

### i. Auction Payments by Wire Transfer

22. Wire transfer payments must be received by 6:00 p.m. ET on June 26, 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. Applicants will need the following information:

- ABA Routing Number: 043000261
- Receiving Bank: Mellon Pittsburgh
- BNF: FCC/AC 910-1211
- OBI Field: (Skip one space between each information item)
  - "AUCTIONPAY"
  - TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, block 26)
  - PAYMENT TYPE CODE (enter "A80U")
  - FCC CODE 1 (same as FCC Form 159, block 23A: "80")
  - PAYER NAME (same as FCC Form 159, block 2)
  - LOCKBOX NO. 1358435

**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.

23. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 209-6045 at least one hour before placing the order for the wire transfer (but on the same business day). Bidders should confirm receipt of their upfront

payment at Mellon Bank by contacting their sending financial institution.

### ii. FCC Form 159

24. A completed FCC Remittance Advice Form (FCC Form 159) must accompany each upfront payment. Detailed instructions for completion of FCC Form 159 are included in Attachment C to the *Auction Public Notice*. The FCC Form 159 must be completed manually and filed with Mellon Bank via facsimile.

### iii. Amount of Upfront Payment

25. In the *Auction No. 80 Comment Public Notice*, the Bureaus proposed an upfront payment of \$420,000. No comments were received concerning this upfront payment. We therefore adopt our proposed upfront payment amount for Auction No. 80.

### iv. Applicant's Wire Transfer Information for Purposes of Refunds

26. The Commission will use wire transfers for all Auction No. 80 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants must fax the Wire Transfer Instructions by June 26, 2000, to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418-2843. Should the payer fail to submit the requested information, the refund will be returned to the original payer by check. For additional information, please call (202) 418-1995.

- Name of Bank
- ABA Number
- Contact and Phone Number
- Account Number to Credit
- Name of Account Holder
- Correspondent Bank (if applicable)
- ABA Number
- Account Number

### C. Auction Registration

27. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose short-form applications have been accepted for filing and that have timely submitted an upfront payment.

28. 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 short-form applications.

29. 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 Friday, July 7, 2000, should contact the Auctions Hotline at 717-338-2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

30. 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, S.W., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's short-form application, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacement codes must call technical support prior to arriving at the FCC to arrange preparation of new codes.

#### *D. Remote Electronic Bidding Software*

31. Qualified bidders are allowed to bid electronically or by telephone. If choosing to bid electronically, each bidder must purchase their own copy of the remote electronic bidding software. Electronic bids will only be accepted from those applicants purchasing the software. However, the software may be copied by the applicant for use by its authorized bidders at different locations. The price of the FCC's remote bidding software is \$175.00 and must be ordered by Monday, June 26, 2000. For security purposes, the software is only mailed to the contact person at the contact address listed on the short-form application. Please note that auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 80.

#### *E. Mock Auction*

32. All qualified bidders will be eligible to participate in a mock auction on Monday, July 10, 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.

#### **IV. Auction Event**

33. The first round of bidding for Auction No. 80 will begin on Wednesday, July 12, 2000. The initial bidding schedule will be announced in the public notice listing the qualified bidders which is released approximately 10 days before the start of the auction.

##### *A. Auction Structure*

##### *i. Multiple Round, Ascending Auction*

34. In the *Auction No. 80 Comment Public Notice*, the Bureaus proposed to award the construction permit for Channel 52 at Blanco, Texas in a multiple-round, ascending auction. We received no comments on this issue. The Bureaus therefore conclude that it is operationally feasible and appropriate to auction the construction permit for Channel 52 at Blanco, Texas in a multiple-round, ascending auction. Unless otherwise announced, bids will be accepted on the construction permit in successive rounds of bidding.

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

35. In the *Auction No. 80 Comment Public Notice*, the Bureaus proposed that the amount of the upfront payment submitted by a bidder would determine the eligibility (as measured in bidding units) for participation in Auction No. 80. The Bureaus received no comments on this issue. For Auction No. 80, the Bureaus will adopt their proposal that the amount of the upfront payment submitted by a bidder determines the eligibility (in bidding units) for participation in Auction No. 80.

36. In addition, the Bureaus received no comments on their proposal for a single stage auction. Therefore, the Bureaus will adopt their proposal with the following activity requirements: a bidder must either place a valid bid and/or be the standing high bidder during each round of the auction rather than wait until the end before participating. A bidder is required to be active on 100 percent of their bidding eligibility. 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 bidding eligibility, thus eliminating the bidder from the auction.

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

37. The Bureaus adopt their proposal that each bidder be provided three activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity

in the current round being below the required minimum level. We are satisfied that by providing three waivers over the course of the auction we will offer maximum flexibility to the bidders, while safeguarding the integrity of the auction.

38. The FCC automated auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required. If there are no activity rule waivers available, the bidder's eligibility will be reduced, eliminating them from the auction.

39. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the 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 will not keep the auction open.

##### *iv. Auction Stopping Rules*

40. For Auction No. 80, the Bureaus will employ a modified version of the stopping rule. The modified version of the stopping rule would close the auction after the first round in which no bidder submits a proactive waiver or a new bid on the construction permit when it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on the construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

41. The Bureaus will further retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted. In addition, the Bureaus reserves the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). The Bureaus will 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. Under the stopping rule, bidding will remain open on the construction permit until bidding stops. The auction will close for the construction permit when one round passes during which no bidder submits

a new acceptable bid or applies a proactive waiver. After the first such round, bidding will close on the construction permit. In addition, the Bureaus retain the discretion to close the auction after the first round in which no bidder submits a proactive waiver or a new bid on the construction permit on which it is not the standing high bidder. Under this modified stopping rule, absent any other bidding activity, a bidder placing a new bid on the construction permit for which it is the standing high bidder would not keep the auction open under this stopping rule procedure.

42. The Bureaus also retain the discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted in a round. Further, in their discretion, the Bureaus reserve the right to invoke the "special stopping rule." Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day.

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

43. 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. 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.

#### B. Bidding Procedures

##### i. Round Structure

44. The initial bidding schedule will be announced in the public notice listing the qualified bidders which is released approximately 10 days before the start of the auction. This public notice will be included with the registration mailings. The round structure contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day.

Details regarding round result formats and locations will be included in a future public notice listing the qualified bidders of Auction No. 80. 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.

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

45. In the *Auction No. 80 Comment Public Notice*, the Bureaus proposed to establish a minimum opening bid for Auction No. 80 of \$420,000. Specifically, for Auction No. 80, the Commission proposed calculating the minimum opening bid based on the potential value of the spectrum, including the type of service, market size, industry cash flow data and recent broadcast transactions. No comments were received, therefore we will adopt the minimum opening bid of \$420,000, as proposed, for Auction No. 80.

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

46. The Bureaus will apply a minimum bid increment of 10 percent and will retain the discretion to change the minimum bid increment if circumstances so dictate. Once there is a standing high bid on the 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 Auction No. 80, the Bureaus will use a flat, across-the-board increment of 10 percent to calculate the minimum bid increment. The Bureaus retain the discretion to compute the minimum bid increment through other methodologies if it determines circumstances so dictate. Advanced notice of the Bureaus' decision to do so will be announced via the Automated Auction System.

##### iv. High Bids

47. Each bid will be date- and time-stamped when it is entered into the Automated Auction System. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which the Commission 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, a bid submitted by a bidder earlier in a

round will have an earlier date and time stamp than a bid submitted later in a round.

##### v. Bidding

48. During a bidding round, a bidder may submit a bid, subject to its eligibility, as well as, remove a bid placed in the same bidding round. If a bidder submits multiple bids for the construction permit 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.

49. Please note that all bidding will take place remotely either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 80.

50. When utilizing the bidding software, each bidder is required to login 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.

51. The bid entry screen of the automated auction system software for Auction No. 80 allows bidders to place a multiple increment bid, which will let bidders increase a high bid 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 the construction permit. The bidding software will display the bid increment.

52. To place a bid on the construction permit, the bidder must increase the standing high bid by one to nine times the bid increment. This is done by entering a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field in the software. 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:

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

53. 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.

54. In the first round of the auction, bidders will be limited to bidding only the minimum acceptable bid. In this case no increment exists for the construction permit, and bidders should enter "1" in the Bid Mult field. Note that in this case, any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount.

#### vi. Bid Removal and Bid Withdrawal

55. The Bureaus will employ bid removal and bid withdrawal rules. With respect to bid withdrawals, bidders will not be permitted to withdraw bids in any round. Before the close of a bidding round, a bidder has the option of removing a bid placed in that round. By using the "remove bid" function in the software, a bidder may effectively "unsubmit" a bid placed within that round. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.* a bid that is subsequently removed does not count toward the bidder's activity requirement. Once a round closes, a bidder may no longer remove a bid.

#### vii. Round Results

56. Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Commission will compile reports of all bids placed, current high bid, new minimum accepted bid, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and FCC account numbers for Auction No. 80 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

#### viii. Auction Announcements

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

#### ix. Maintaining the Accuracy of Short-Form (FCC Form 175) Information

58. After the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision

of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to: Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. A separate copy of the letter should be mailed to Kenneth Burnley, Auctions and Industry Analysis Division, 4-B524, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Applicants should make these changes to their short-form applications on-line after the Bureau's release of a public notice listing qualified bidders in Auction No. 80. Questions about other changes should be directed to Kenneth Burnley at (202) 418-0660.

### V. Post-Auction Procedures

#### A. Down Payments

59. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bid and bidder for the construction permit. Within ten business days after release of the auction closing public notice, the winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the United States Government to 20 percent of its net winning bid (actual bid less any applicable bidding credit). *See* 47 CFR 1.2107(b).

#### B. Long-Form Application

60. Within ten business days after release of the auction closing public notice, the winning bidder must electronically submit a properly completed long-form application and required exhibits for the construction permit won through the auction. If the winning bidder is claiming new entrant status it must include an exhibit demonstrating their eligibility for the bidding credit. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to the auction winner at the close of the auction.

#### C. Default and Disqualification

61. If the high bidder defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) it will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the construction permit or offer

it to the next highest bidder (in descending order) at their final bid. *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 licenses or construction permits held by the applicant. *See* 47 CFR 1.2109(d).

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

62. All applicants that submitted upfront payments but were not the winning bidder for the construction permit will be entitled to a refund of their upfront payment after the conclusion of the auction. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payment before the close of the auction. Bidders that have exhausted all of their activity rule waivers and have no remaining bidding eligibility must submit a written refund request which includes wire transfer instructions and a Taxpayer Identification Number ("TIN"), to:

- Federal Communications Commission
- Financial Operations Center
- Auctions Accounting Group
- Shirley Hanberry
- 445 12th Street, S.W., Room 1-A824
- Washington, D.C. 20554

Bidders can fax their request to the Auctions Accounting Group at (202) 418-2843. Once the request has been approved, a refund will be sent to the party identified in the refund information.

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Tim Dates or Gail Glasser at (202) 418-1995.

63. For additional information, please contact the following persons: Media: Meribeth McCarrick at (202) 418-0654. Auctions and Industry Analysis Division: Kenneth Burnley, Attorney, Auctions Legal Branch at (202) 418-0660; Lisa Stover, Project Manager or Bob Reagle, Analyst, Auctions Operations Branch at (717) 338-2888. Audio Services Division: Shaun Maher at (202) 418-2324.

Federal Communications Commission.

**Louis Sigalos,**

*Deputy Chief, Auctions and Industry Analysis Division.*

[FR Doc. 00-16099 Filed 6-23-00; 8:45 am]

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