

Needs and Uses: FCC Form 601 is a consolidated, multi-part application or "long form" for market-based licensing and site-by-site licensing in the Wireless Telecommunications Bureau's (WTB) Radio Services' Universal Licensing System (ULS).

The information is used by the Commission to determine whether the applicant is legally, technically and financially qualified to be licensed.

The Wireless Telecommunications Bureau will begin issuing licenses for use of frequencies in the 764–776 and 794–806 MHz bands pursuant to Part 90 Subpart R.

There is no change to the estimated average burden and number of respondents at this time as it is unknown as to how additional respondents may partake in this frequency band.

OMB Control Number: 3060–1042.

Title: FCC Wireless Telecommunications Bureau Technical Support Request Form.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, individuals or household, and state, local or tribal government.

Number of Respondents: 25,500.

Estimated Time per Response: 8 minutes.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 3,400 hours.

Total Annual Cost: \$343,400.

Privacy Act Impact Assessment: Yes.

Needs and Uses: The FCC Wireless Telecommunications Bureau supports several processes and systems used to support their licensing and auction services. In offering this service, the public often requests help or consultation with these systems and processes. The FCC currently receives these requests via telephone, email, and the OMB approved form listed above (<http://esupport.fcc.gov/request.hmt>). This form will continue to substantially decrease public and staff burden since all the information needed to facilitate a support request will now be submitted in a standard format but be available to a wider audience. This will eliminate or at least minimize the need to follow-up with the customers to obtain all the information necessary to respond to their request. This form will also help presort requests into previously defined categories to all staff to respond more quickly.

The form is being revised to include the Bureau's entire customer base and better categorization for requests for support. This will further streamline the

FCC's processes and expedite the response on all requests for support to the Bureau within one consolidated format.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–04–57–B; DA 04–1513]

Automated Maritime Telecommunications System Spectrum Auction Scheduled for September 15, 2004; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of licenses in the Automated Maritime Telecommunications System ("AMTS") spectrum. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 57 is scheduled for September 15, 2004.

FOR FURTHER INFORMATION CONTACT:

Auctions and Spectrum Access Division, WTB: For legal questions: Howard Davenport at (202) 418–0660, for general auction questions: Jeff Crooks at (202) 418–0660 or Lisa Stover at (717) 338–2888. Media Contact: Lauren Patrich at (202) 418–7944.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 57 Procedures Public Notice* released on May 26, 2004. The complete text of the *Auction No. 57 Procedures Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction No. 57 Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at their Web site: <http://www.BCPIWEB.com>. This document is also available on the Internet at the

Commission's Web site: <http://wireless.fcc.gov/auctions/57/>.

I. General Information

A. Introduction

1. The *Auction No. 57 Procedures Public Notice*, announces the procedures and minimum opening bids for the upcoming auction of licenses in the AMTS spectrum scheduled for September 15, 2004 (Auction No. 57). On April 5, 2004, in accordance with the Balanced Budget Act of 1997, the Wireless Telecommunications Bureau (the "Bureau") released a public notice seeking comment on reserve prices or minimum opening bids and the procedures to be used in Auction No. 57. The Bureau received two comments, three reply comments, and further comments ex parte in response to the *Auction No. 57 Comment Public Notice*, 69 FR 21110, April 20, 2004.

i. Background of Proceeding

2. The Maritime Services provide for the unique distress, operational and personal communication needs of vessels at sea and on inland waterways. AMTS is a maritime service that was established in 1981 as an alternative to VHF public coast service ("VPCS"). In the *Public Coast Second Report and Order and Second Further Notice*, 62 FR 40281, July 28, 1997, the Commission described AMTS as a specialized system of public coast stations providing integrated and interconnected marine voice and data communications, somewhat like a cellular phone system, for tugs, barges, and other commercial vessels on waterways.

3. Section 309(j)(2) of the Communications Act formerly stated that mutually exclusive applications for initial licenses or construction permits were auctionable if the principal use of the spectrum was for subscriber-based services, and competitive bidding would promote the expressed objectives of the Communications Act. The Commission concluded that the public coast service, including VPCS, high seas, and AMTS public coast stations, was a Commercial Mobile Radio Service ("CMRS") and subsequently decided that mutually exclusive applications for public coast station licenses would be resolved through competitive bidding.

4. On August 5, 1997, after release of the *Public Coast Second Report and Order and Second Further Notice*, President Clinton signed into law the Balanced Budget Act of 1997 ("Balanced Budget Act"), which expanded the Commission's auction authority by amending Section 309(j) of the Communications Act to provide that all

mutually exclusive applications for initial licenses or construction permits shall be auctioned, with certain exceptions not applicable here.

5. In the *Public Coast Second Report and Order and Second Further Notice*, the Commission adopted AMTS rules that permit service on land, so long as marine-originating communications receive priority. In the *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order*, 67 FR 48560, July 25, 2002, the Commission adopted a geographic licensing system for AMTS with service areas ("AMTSAs") based upon maritime VPCS areas ("VPCSA"), with the

modification that the inland VPCSA's would be consolidated into a single, inland geographic service area. The Commission announced that it would conduct an auction to resolve mutually exclusive applications for AMTS licenses. Additionally, the Commission concluded that the general competitive bidding rules, and the rules regarding the participation of small businesses in auctions that were applied to the auction of VPC licenses, should be used for auctioning AMTS licenses.

6. On April 5, 2004, the Wireless Telecommunications Bureau ("Bureau") released the *Auction No. 57 Comment Public Notice*, announcing that Auction

No. 57 will commence on September 15, 2004, setting forth a complete list of licenses for Auction No. 57, and seeking comment on reserve prices or minimum opening bids and other auction procedures.

ii. Licenses To Be Auctioned

7. Auction No. 57 will offer 20 licenses in the AMTS Service in the 217/219 MHz bands. Two licenses will be offered in each of 10 AMTSAs. A complete list of the licenses available in Auction No. 57 is included in Attachment A of the *Auction No. 57 Procedures Public Notice*.

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

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

B. Rules and Disclaimers

i. Relevant Authority

8. Prospective applicants must familiarize themselves thoroughly with the Commission's rules relating to the AMTS service contained in title 47, part 80, of the Code of Federal Regulations, and those relating to application and auction procedures, contained in Title 47, Part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, "terms") contained in *Auction No. 57 Procedures Public Notice*; the *Auction No. 57 Comment Public Notice*; *Public Coast Second Memorandum Opinion and Order and Fifth Report and Order* and the *Public Coast Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 65 FR 77821, December 13, 2000 and 65 FR 76966, December 8, 2000 (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures).

9. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or

supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

ii. Prohibition of Collusion

10. To ensure the competitiveness of the auction process, § 1.2105(c) of the Commission's rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii). Thus, applicants for any of the same geographic license areas must affirmatively avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bidding or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. For purposes of this prohibition, § 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity.

11. Applicants for licenses in any of the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the applicants he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

12. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering the same geographic areas. In addition, applicants that apply to bid for all markets will be precluded from communicating with all other applicants until after the down payment deadline. However, all applicants may enter into bidding agreements before filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175. If

parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

13. Section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires auction applicants that engage in communications of bids or bidding strategies that result in a bidding agreement, arrangement or understanding not already identified on their short-form applications to promptly disclose any such agreement, arrangement or understanding to the Commission by amending their pending applications. In addition, § 1.2105(c)(6) requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing immediately but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under § 1.65.

14. Any applicant found to have violated the anti-collusion rule may be subject to sanctions, including forfeiture of its upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions.

15. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment G of the *Auction No. 57 Procedures Public Notice*.

iii. Interference Protection

16. Incumbent AMTS site-based licensees are entitled to co-channel protection by AMTS geographic area licenses. Among other licensing and technical rules, AMTS geographic area licensees will be required to afford interference protection to incumbent systems, on a fixed separation basis as provided in § 80.385(b)(1) of the Commission's rules. Geographic area licensees must also provide co-channel

interference protection to other geographic area licensees in accordance with § 80.479(b) and § 80.70(a).

17. Incumbents will be prohibited from renewing, transferring, assigning, or modifying their licenses in any manner that extends their system's service area or results in their acquiring additional frequencies, unless there is consent from each affected geographic area licensee. If an incumbent fails to construct, discontinues operations, or otherwise has its license terminated, the spectrum covered by the incumbent's authorization will automatically revert to the geographic area licensee.

18. In addition, AMTS licensees that cause interference to television reception or to the U.S. Navy SPASUR system must cure the problem or discontinue operations.

iv. Coordination Requirements

19. AMTS geographic area licensees may place stations anywhere within their service areas to serve vessels or units on land, so long as incumbent operations are protected, marine-originating traffic is given priority and certain major waterways are served. However, geographic area licensees must individually license any base station that requires an Environmental Assessment pursuant to § 1.1307 of the Commission's Rules or international coordination, or would affect the radio frequency quiet zones described in § 80.21 of the Commission's rules, or would require broadcaster notification and an engineering study described in § 80.215(h).

20. For instance, AMTS applicants proposing to locate a transmitter (i) within 169 kilometers (105 miles) of a Channel 13 television station, (ii) within 105 kilometers (80 miles) of a Channel 10 television station, or (iii) with an antenna height greater than 61 meters (200 feet), must file an application with the Commission, including an engineering study showing how harmful interference to television reception will be avoided, and must also give written notice of the application to the television stations that may be affected so that the broadcaster can comment on the proposed construction.

21. Additionally, AMTS licensees must obtain written consent from all affected licensees prior to using AMTS frequencies for mobile-to-mobile communications.

v. Due Diligence

22. Potential applicants are reminded that there are a number of incumbent licensees already licensed and operating on frequencies that will be subject to the upcoming auction, such as AMTS

Station licensees. Such incumbents must be protected from harmful interference by AMTS Station geographic area licensees in accordance with the Commission's Rules. These limitations may restrict the ability of such AMTS geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. We therefore caution potential applicants in formulating their bidding strategies to investigate and consider the extent to which AMTS frequencies are occupied by incumbents.

23. Potential applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 57.

24. In establishing the AMTS service, the Commission considered the potential for interference to television reception, particularly Channels 13 and 10. Consequently, geographic licensees will be required to file individual applications for authority to operate a new AMTS transmitter within 169 kilometers (105 miles) of a Channel 13 television station or 129 kilometers (80 miles) of a Channel 10 television station, or with an antenna height greater than 61 meters (200 feet) above ground. Such applications must include an engineering study showing how harmful interference to television reception will be avoided, and the applicant must notify each television station that may be affected so that the broadcaster can comment on the proposed construction. Moreover, any AMTS licensee that causes such interference must cure the problem or cease operations. AMTS licensees are permitted to construct "fill-in" sites without filing individual applications, but such sites are fully subject to the requirement that AMTS stations cause no harmful interference to television reception, and must discontinue operations if unable to meet this requirement.

25. In addition, AMTS operations must not cause harmful interference to the United States Navy's Space Surveillance System (SPASUR), which operates in the 216.880–217.080 MHz band. Also, law enforcement tracking operations are currently authorized on a primary basis in certain markets in AMTSAs 3, 4, 6, 9 and 10 on a frequency in block A. These operations are scheduled to be converted to non-AMTS frequencies by 2007. It is the responsibility of bidders to be aware of these and all other technical or

regulatory matters affecting the spectrum licenses available in this auction.

26. With respect to the geographic boundaries for Automated Maritime Telecommunications System areas (AMTSAs), the Commission defined the AMTSA boundaries to include “the adjacent waters under the jurisdiction of the United States.” Regarding the boundary between AMTSA 3, which includes the west coast of Florida, and AMTSA 4, which includes the Gulf of Mexico EA-like area, we hereby clarify that, for AMTSA 3, the boundary extends only to the limit of the U.S. territorial waters in the Gulf (12-nautical mile limit); and the boundary for AMTSA 4 extends from the 12-nautical mile line outward to the broadest geographic limits consistent with international agreements.

27. To date, no existing agreements between the United States and Mexico or Canada restrict AMTS channel availability in the Mexican and Canadian border areas. Licensees will, however, be subject to any future agreements regarding international assignments and coordination of such channels; and it is the responsibility of bidders to be familiar with all relevant governing international agreements; and that such agreements and amendments thereto may affect the use, utility or value of the spectrum at issue.

28. Potential bidders should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority (“STA”), waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 57. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 57. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

29. Prospective bidders should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. We note that resolution of such matters could have an impact on the availability of spectrum for Auction No. 57. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these

matters may not be resolved by the time of the auction.

30. Potential bidders may obtain information about licenses available in Auction No. 57 through the Bureau’s licensing databases on the World Wide Web at <http://wireless.fcc.gov/uls>. Potential applicants may query the database online and download a copy of their search results if desired. Detailed instructions on using License Search (including frequency searches and the GeoSearch capability) and downloading query results are available online by selecting the “?” button at the upper right-hand corner of the License Search screen.

31. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission’s databases may not include all information deemed necessary or desirable by a bidder, bidders may obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential applicants are strongly encouraged to physically inspect any sites located in, or near, the service area for which they plan to bid.

vi. Bidder Alerts

32. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

33. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 57 to deceive and defraud unsuspecting investors.

34. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific

deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 57 may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

vii. National Environmental Policy Act Requirements

35. Licensees must comply with the Commission’s rules regarding the National Environmental Policy Act (“NEPA”). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission’s NEPA rules for each such facility.

C. Auction Specifics

i. Auction Date

36. The auction will begin on Wednesday, September 15, 2004, as announced in the *Auction No. 57 Comment Public Notice*. We do not believe a delay of the start of Auction No. 57 would be in the public interest. Mobex argues for a four month delay in the auction schedule so that potential bidders can analyze the significant technical requirements and financial issues involved with providing maritime service on a co-primary basis and to “grasp” the heavy presence of incumbents associated with the spectrum. Additionally, Mobex argues that uncertainty regarding the subject spectrum’s service rules could improperly skew the auction results and artificially restrict the optimal public interest benefit obtained through the auction process.

37. We do not find the comments arguing for a delay persuasive. Potential bidders have already had more than three years to “grasp” the heavy presence of incumbents in this spectrum, given that the Commission froze new licenses in 2000. Moreover, although they have been subject to modification since, the Commission adopted technical rules for AMTS over two years ago. Finally, the commenters that argued for delay are already providing AMTS services, and thus, already have business plans, presumably have assessed market conditions, and certainly evaluated the availability of equipment for the AMTS service. With respect to the existence of pending litigation, the Bureau has previously concluded that, in general, this is not a sufficient reason to delay an auction. We expect that applicants bidding on licenses subject to litigation take such litigation into account in

determining their bidding strategies, lowering the level of risk that results from bidding on licenses subject to pending proceedings.

38. Section 309(j)(3)(E)(ii) provides, in pertinent part, that after the issuance of bidding rules the Commission shall “ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.” The Commission decided in 2002 that the general bidding rules found in subpart Q of part 1 of the Commission’s Rules should apply to the auction of public coast spectrum. We do not believe that the statutory requirement to provide prospective bidders with time to develop a business plan and evaluate the availability of equipment requires the Commission to postpone an auction until every external factor that might influence a bidder’s business plan is resolved with absolute certainty. We also note that, while § 309(j)(3)(E) directs the Commission to provide interested parties adequate time to prepare prior to an auction, the statute also requires that the Commission promote several other objectives in exercising its competitive bidding authority, including the rapid

deployment of new technologies and services to the public, promotion of economic opportunity and competition, recovery for the public of a portion of the value of the spectrum, and efficient and intensive use of the spectrum. In balancing these objectives, we determine that the public interest would be served by proceeding with the auction as scheduled.

39. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

40. Auction No. 57—AMTS.

iii. Bidding Methodology

41. The bidding methodology for Auction No. 57 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically.

iv. Pre-Auction Dates and Deadlines

- 42. The following is a list of important dates related to Auction No. 57:
 - Auction Seminar—July 1, 2004
 - Short-Form Application (FCC Form 175) Filing Window Opens—July 1, 2004; 12 p.m. ET
 - Short-Form Application (FCC Form 175) Filing Window Deadline—July 19, 2004; 6 p.m. ET
 - Upfront Payments (via wire transfer)—August 20, 2004; 6 p.m. ET
 - Mock Auction—September 10, 2004
 - Auction Begins—September 15, 2004

v. Requirements for Participation

- 43. Those wishing to participate in the auction must:
 - Submit a short-form application (FCC Form 175) electronically by 6 p.m. ET, July 19, 2004.
 - Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, August 20, 2004.
 - Comply with all provisions outlined in this *Auction No. 57 Procedures Public Notice*.

vi. General Contact Information

44. The following is a list of general contact information related to Auction No. 57:

General Auction Information, General Auction Questions, Seminar Registration	FCC Auctions Hotline, (888) 225-5322, Press Option #2, or direct (717) 338-2888, Hours of service: 8 a.m.-5:30 p.m. ET, Monday through Friday.
Auction Legal Information, Auction Rules, Policies, Regulations	Auctions and Spectrum Access Division, Legal Branch (202) 418-0660.
Licensing Information, Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues.	Public Safety and Critical Infrastructure Division, (202) 418-0680.
Technical Support, Electronic Filing, FCC Automated Auction System.	FCC Auctions Technical Support Hotline, (202) 414-1250, (202) 414-1255 (TTY), Hours of service: 8 a.m.-6 p.m. ET, Monday through Friday.
Payment Information, Wire Transfers Refunds	FCC Auctions Accounting Branch, (202) 418-0578, (202) 418-2843 (Fax)
Telephonic Bidding	Will be furnished only to qualified bidders
Press Information	Lauren Patrich (202) 418-7944
FCC Forms	(800) 418-3676 (outside Washington, DC), (202) 418-3676 (in the Washington Area), http://www.fcc.gov/formpage.html
FCC Internet Sites	http://www.fcc.gov , http://wireless.fcc.gov/auctions , http://wireless.fcc.gov/uls

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

45. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 57 Procedures Public Notice*.

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

46. All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission’s rules. Specifically, in

completing FCC Form 175, applicants will be required to file an “Exhibit A” providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission’s rules.

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

47. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium

arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular

licenses on which they will or will not bid.

48. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

C. Eligibility

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

49. A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.

50. In the *Public Coast Third Report and Order and Memorandum Opinion and Order*, 63 FR 40059, July 27, 1998, the Commission adopted bidding credits to promote and facilitate the participation of small businesses in auctions of public coast licenses. For Auction No. 57, bidding credits will be available to small businesses or consortia thereof, as follows:

- A bidder with attributed average annual gross revenues of not more than \$15 million for the preceding three years ("small business") will receive a 25 percent discount on its winning bids;
- A bidder with attributed average annual gross revenues of not more than \$3 million for the preceding three years ("very small business") will receive a 35 percent discount on its winning bids.

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

52. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit. See Section V.E. of the *Auction Number 57 Procedures Public Notice*.

53. *Attribution for small business and very small business eligibility*. In determining which entities qualify as small businesses or very small businesses, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates, will be counted in determining small business eligibility.

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

ii. Supporting Documentation

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

56. Applicants should further note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

57. *Small business or very small business eligibility (Exhibit C)*. Entities applying to bid as small businesses or very small businesses (or consortia of small businesses or very small businesses) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate*, the gross revenues for the preceding three years of each of the following: (i) The applicant, (ii) its affiliates, (iii) its controlling interests,

and (iv) the affiliates of its controlling interests. Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, a schedule of gross revenues for *each* of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of small businesses or very small businesses, this information must be provided for each consortium member.

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

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

59. "Former defaulters"—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 57, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.iii, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

E. Installment Payments

60. Installment payment plans will not be available in Auction No. 57.

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

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

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

62. After the short-form filing deadline (6:00 p.m. ET July 19, 2004), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change the certifying official, change control of the applicant, or change bidding credits). See 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction57@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 57. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

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

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

64. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the

dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

65. On Thursday, July 1, 2004, the FCC will sponsor a seminar for Auction No. 57 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, auction conduct, the FCC Automated Auction System, auction rules, and the AMTS service rules.

B. Short-Form Application (FCC Form 175)—Due July 19, 2004

66. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6:00 p.m. ET on July 19, 2004. Late applications will not be accepted.

iii. Electronic Filing

67. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon ET on July 1, 2004, until 6:00 p.m. ET on July 19, 2004. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on July 19, 2004.

68. Applicants must press the "SUBMIT Application" button on the "Submission" page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 57 Procedures Public Notice*. Technical support is available at (202) 414-1250 (voice) or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8 a.m. to 6 p.m. ET. However, because the Initial application filing window for Auction 57 closes on Monday, July 19, the FCC will provide Technical Support on Saturday, July 17, and Sunday, July 18, from 9 a.m. to 5 p.m. ET. In order to provide better service to the public, *all calls to the hotline are recorded*.

iv. Completion of the FCC Form 175

69. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the

Auction No. 57 Procedures Public Notice. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form.

v. Electronic Review of FCC Form 175

70. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. There is no fee for accessing this system. See Attachment C of the *Auction No. 57 Procedures Public Notice* for details on accessing the review system.

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

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

C. Application Processing and Minor Corrections

72. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) Those applications accepted for filing; (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

D. Upfront Payments—Due August 20, 2004

73. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6 p.m. ET on August 20, 2004. Failure to deliver the upfront payment by the August 20, 2004, deadline will result in dismissal of the application and disqualification from participation in the auction. For specific details regarding upfront payments, see III.D. of the *Auction No. 57 Procedures Public Notice*.

i. Making Auction Payments By Wire Transfer

74. Wire transfer payments must be received by 6 p.m. ET on August 20, 2004. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they

plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

75. Applicants must fax a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer—Auction Payment for Auction Event No. 57." In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

ii. Amount of Upfront Payment

76. In the *Part 1 Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, 65 FR 52323, August 29, 2000, the Commission ordered that "former defaulters," *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments 50 percent greater than non-"former defaulters." For purposes of this calculation, the "applicant" includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules.

77. The amount of the upfront payment will determine the number of bidding units on which a bidder may place bids. In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

78. For Auction No. 57 the Commission adopts upfront payments

on a license-by-license basis using the following formula: $\$0.005 * \text{MHz} * \text{License Area Population}$ with a minimum of \$1,000 per license.

79. The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 57 Procedures Public Notice*.

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

81. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

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

82. The Commission will use wire transfers for all Auction No. 57 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information be supplied to the FCC: Name of Bank; ABA Number; Contact and Phone Number; Account Number to Credit; Name of Account Holder; FCC Registration Number (FRN); Taxpayer Identification Number; Correspondent Bank (if applicable); Account Number. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise.

E. Auction Registration

83. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make

them eligible to bid on at least one of the licenses for which they applied.

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

85. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, September 8, 2004, should contact the Auctions Hotline at (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

86. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing *in person* at the FCC headquarters, located at 445 12th St., SW, Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

87. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or

obtained from a source other than the FCC will not work for Auction No. 57. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number.

G. Mock Auction

88. All qualified bidders will be eligible to participate in a mock auction on Friday, September 10, 2004. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

89. The first round of bidding for Auction No. 57 will begin on Wednesday, September 15, 2004. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

H. Auction Structure

i. Simultaneous Multiple Round Auction

90. We conclude that it is operationally feasible and appropriate to auction the AMTS licenses through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

ii. Maximum Eligibility and Activity Rules

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

92. Note that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 57 Procedures Public Notice* on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, applicants are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

93. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction.

94. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits a bid in the current round (*see* "Minimum Acceptable Bids and Bid Increments" in section IV.B.iii). The minimum required activity is expressed as a percentage of the bidder's current bidding eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under "Auction Stages" in Section IV.A.iii and "Stage Transitions" in Section IV.A.iv), we adopt them for Auction No. 57.

iii. Auction Stages

95. The Commission will conduct the auction in two stages and employ an activity rule. Listed are the activity levels for each stage of the auction. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by twenty-nineteenths (20/19).

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by using the bidding system's bidding module.

96. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 57.

iv. Stage Transitions

97. The auction would generally advance to the next stage (*i.e.*, from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below 20 percent for three consecutive rounds of bidding in each Stage. The Bureau will retain the discretion to change stages unilaterally by announcement during the auction.

98. Thus, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We believe that these stage transition rules are appropriate for use in Auction No. 57.

v. Activity Rule Waivers and Reducing Eligibility

99. Each bidder will be provided three activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

100. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing

eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not satisfy the required activity level, the current eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction.

101. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (see Section IV.A.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

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

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

vi. Auction Stopping Rules

103. For Auction No. 57, the Commission will employ a simultaneous stopping rule, and retain discretion to invoke a modified version of the stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder.

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

vii. Auction Delay, Suspension, or Cancellation

105. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. Exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

I. Bidding Procedures

i. Round Structure

106. The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

107. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

108. For Auction No. 57, the Bureau adopts the following license-by license formula for calculating minimum opening bids: $\$0.0075 * \text{MHz} * \text{License Area Population}$ with a minimum of \$1,000 per license.

109. The Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

110. Two parties submitted comments with respect to minimum opening bids. In his comments, Havens recommends a 50% reduction of minimum opening bids. Moreover, Havens recommends that population incumbency factors be used in the minimum opening bid formula on a license-by-license basis. In reply comments, Mobex also asserts that minimum opening bid levels are too high based on high incumbency levels. Mobex also compares results from the Multichannel Video Distribution and Data Service auction (Auction No. 53) and minimum opening bids for the 24 GHz Service auction (Auction No. 56) as comparative rationale for lowering the minimum opening bids for this auction.

111. The Commission is not persuaded by the argument that adjacent spectrum values are necessarily an indicator of appropriate minimum opening bid levels for licenses with different service rules and geographical licensing schemes. Additionally, we reject the application of a license-by-license incumbency factoring of minimum opening bids. Nevertheless, upon re-examination of the proposed minimum opening bid formula, we exercise our discretion to modify it as follows: $\$0.005 * \text{MHz} * \text{License Area Population}$ with a minimum of \$1,000 per license. The revised formula cuts by one-third the initial proposal for minimum opening bids.

112. The minimum opening bids we adopt for Auction No. 57 are reducible at the discretion of the Bureau. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid on specific licenses.

113. The specific minimum opening bids for each license available in Auction No. 57 are set forth in Attachment A of the *Auction No. 57 Procedures Public Notice*.

iii. Minimum Acceptable Bids and Bid Increments

114. In the *Auction No. 57 Comment Public Notice*, we will use a smoothing methodology to calculate minimum acceptable bids. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum percentage based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity on a license, decreasing the time it takes for licenses receiving many bids to

reach their final prices. The formula used to calculate this increment is included as Attachment F of the *Auction No. 57 Procedures Public Notice*. We will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%). Hence, at these initial settings, the percentage increment will fluctuate between 10% and 20% depending upon the number of bids for the license. The Bureau will retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate.

115. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Automated Auction System will list the nine bid amounts for each license.

116. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described in Attachment F of the *Auction No. 57 Procedures Public Notice*. The difference between the minimum acceptable bid and the standing high bid for each license will define the bid increment—*i.e.*, bid increment = (minimum acceptable bid)—(standing high bid). The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

117. At the start of the auction and until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Corresponding additional bid amounts will be calculated using bid increments defined as the difference between the minimum opening bid times one plus the percentage increment, rounded as described in Attachment F of the *Auction No. 57 Procedures Public Notice*, and the minimum opening bid—*i.e.*, bid increment = (minimum opening bid) (1 + percentage increment) {rounded}—(minimum opening bid). At the start of the auction and until a bid has been placed on a license, the nine acceptable bid amounts for each license consist of the minimum opening bid and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the minimum opening bid plus the bid increment, the

third bid amount equals the minimum opening bid plus two times the bid increment, etc).

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

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

iv. High Bids

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

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

v. Bidding

122. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single license in the same round, the system

takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder's activity at the close of the round.

123. Please note that all bidding will take place remotely either through the FCC Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a bid submission).

124. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) the licenses applied for on FCC Form 175 and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

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

126. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Automated Auction System also includes an import function that allows bidders to upload text files containing bid information and a Type Bids function that allows bidders to enter specific licenses for filtering.

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

vi. Bid Removal and Bid Withdrawal

128. For Auction No. 57 the Commission adopts bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Commission will limit each bidder to withdrawals in no more than two rounds during the course

of the auction. The rounds in which withdrawals are used will be at the bidder's discretion.

129. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, i.e., a bid that is removed does not count toward bidding activity. These procedures will enhance bidder flexibility during the auction.

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

131. The Bureau will limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

132. Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auction(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or

exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s).

133. In instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. The Part 1 Fifth Report and Order provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Result

134. Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureau will compile reports of all bids placed, bids withdrawn, current high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 57 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

135. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

136. After bidding has ended, the Commission will issue a public notice declaring the auction closed and identifying winning bidders, down payments, final payments, and any withdrawn bid payments due.

137. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 57 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business or very small business bidding credits). In addition, by the same deadline, all bidders must pay any

bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," Section IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Final Payments

138. Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 601)

139. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) and required exhibits for each license won through Auction No. 57. Further filing instructions will be provided to auction winners at the close of the auction.

D. Default and Disqualification

140. Any high bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

E. Refund of Remaining Upfront Payment Balance

141. All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 57 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from the applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

142. Bidders that drop out of the auction completely may be eligible for

a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

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

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418-0578.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auction and Spectrum Access Division, WTB.

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BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not

required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Acting Federal Reserve Clearance Officer – Michelle Long, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

OMB Desk Officer – Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. *Report title:* Notice of Proposed Stock Redemption

Agency form number: FR 4008

OMB Control number: 7100-0131

Frequency: On occasion

Reporters: Bank holding companies

Annual reporting hours: 171 hours

Estimated average hours per response: 15.5 hours

Number of respondents: 11

General description of report: This information collection is mandatory (12 U.S.C. § 1844(c)) and is generally not given confidential treatment.

Abstract: The Federal Reserve requires certain bank holding companies (BHCs), based on an amount of redemptions over a defined period, to give written notice to the appropriate Reserve Bank before purchasing or redeeming their equity securities. There is no formal reporting form. The Federal Reserve uses the information to fulfill its statutory obligation to supervise BHCs.

2. *Report title:* Filings Related to the Gramm-Leach-Bliley Act

Agency form number: FR 4010, FR 4011, FR 4012, FR 4017, FR 4019

OMB Control number: 7100-0292

Frequency: On occasion

Reporters: Bank holding companies, including financial holding companies foreign banking organizations, and state member banks

Annual reporting hours: 3,142 hours

Estimated average hours per response: FR 4010: BHC 3 hours, FBOs 3.5 hours;

FR 4011: Activities financial in nature, or incidental or complementary to

financial activities 10 hours, Advisory

opinions 10 hours; FR 4012: BHCs

decertified as FHCs 1 hour, FHCs back

into compliance 10 hours; FR 4017:

SMBs 4 hours; FR 4019: Regulatory

relief requests 1 hour, Portfolio

company notification 1 hour;

Recordkeeping: 50 hours

Number of respondents: FR 4010:

BHC 58, FBOs 5; FR 4011: Activities

financial in nature, or incidental or

complementary to financial activities 2,

Advisory opinions 2; FR 4012: BHCs

decertified as FHCs 13, FHCs back into

compliance 27; FR 4017: SMBs 5; FR

4019: Regulatory relief requests 5,

Portfolio company notification 5;

Recordkeeping: 52

General description of report: These collections of information are required to obtain a benefit and are authorized under:

FR 4010: Section 4(l)(1)(C) of the BHC Act (12 U.S.C. § 1843(l)(1)(C)), section 8(a) of the International Banking Act (12 U.S.C. § 3106(a)), and sections 225.82 and 225.91 of Regulation Y (12 C.F.R. 225.82 and 225.91);

FR 4011: Section 4(k) of the BHC Act (12 U.S.C. § 1843(k)) and sections 225.88(b) and (e) and 225.89 of Regulation Y (12 C.F.R. 225.88(b) and (e) and 225.89);

FR 4012: Section 4(m) of the BHC Act (12 U.S.C. § 1843(m)), section 8(a) of the International Banking Act (12 U.S.C. § 3106(a)), and sections 225.83 and 225.93 of Regulation Y (12 C.F.R. 225.83 and 225.93);

FR 4017: Section 9 of the Federal Reserve Act (12 U.S.C. § 335) and section 208.76 of Regulation H (12 C.F.R. 208.76);

FR 4019: Section 4(k)(7) of the BHC Act (12 U.S.C. § 1843(k)(7)) and sections 225.171(e)(3), 225.172(b)(4), and 225.173(c)(2) of Regulation Y (12 C.F.R. 225.171(e)(3), 225.172(b)(4), and 225.173(c)(2));

Recordkeeping: Section 4(k)(7) of the BHC Act (12 U.S.C. § 1843(k)(7)) and sections 225.171(e)(4) and 225.175 of Regulation Y (12 C.F.R. 225.171(e)(4) and 225.171).

A company may request confidentiality for the information contained in these information collections pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552 (b)(4) and (b)(6)).

Abstract: Each BHC or FBO seeking FHC status must file the FR 4010 declaration, which includes information needed to verify eligibility for FHC status. By filing the FR 4011 a requestor may ask the Board to determine that an activity is financial in nature, to issue an advisory opinion that an activity is within the scope of an activity previously determined to be financial in nature, or to approve engagement in an activity complementary to a financial activity. Any FHC ceasing to meet capital or managerial prerequisites for