

Originating Bank Information (OBI Field): (Skip one space between each information item)  
"AUCTIONPAY"

APPLICANT FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 21)

PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "A70U")

FCC CODE 1: (same as FCC Form 159, block 28A: "70")

PAYER NAME: (same as FCC Form 159, block 2)

LOCKBOX NO. # 358405

**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.

90. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must send by facsimile a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045. On the cover sheet of the facsimile, write "Wire Transfer — Auction Payment for Auction No. 70." In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account before the deadline.<sup>130</sup> **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.**

91. 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. 70 go to a lockbox number different from the lockboxes 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 specified deadline on February 5, 2007, will result in dismissal of the application and disqualification from participation in the auction.

## 2. FCC Form 159

92. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be sent by facsimile to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment D to this Public Notice. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

## 3. Upfront Payments and Bidding Eligibility

93. Upfront payments help deter frivolous or insincere bidding. In addition, upfront payments provide the Commission with a source of funds in the event that the bidder incurs liability during the auction. Applicants must make upfront payments sufficient to obtain bidding eligibility on the construction permits on which they will bid.

94. In the *Part 1 Order*, the Commission delegated to the Bureaus the authority and discretion to determine appropriate upfront payment(s) for each auction.<sup>131</sup> In addition, in the *Part 1 Fifth Report and*

<sup>130</sup> See Letter to Patrick Shannon, Counsel for Lynch 3G Communications Corp., 18 FCC Rcd 11552 (WTB 2003).

<sup>131</sup> Amendment of Part 1 of the Commission's Rules — Competitive Bidding Proceeding, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd 5686, 5697-98 ¶ 16 (1997) ("*Part 1 Order*").

*Order*, the Commission ordered that applicants that are “former defaulters” be required to pay upfront payments 50 percent greater than non-former defaulters.<sup>132</sup> 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 Section 1.2110 of the Commission’s rules.<sup>133</sup>

95. In the *Auction No. 70 Comment Public Notice*, we proposed that the amount of the upfront payment would determine a bidder’s initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids.<sup>134</sup> In order to bid on a construction permit, otherwise qualified bidders that selected that construction permit on FCC Form 175 must have a current eligibility level that meets or exceeds the number of bidding units assigned to that construction permit. At a minimum, therefore, an applicant’s total upfront payment must be enough to establish eligibility to bid on at least one of the construction permits selected on its FCC 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 construction permits the applicant selected on its FCC Form 175, but rather to cover the maximum number of bidding units that are associated with construction permits on which the bidder wishes to place bids and hold provisionally winning bids at any given time.<sup>135</sup>

96. In the *Auction No. 70 Comment Public Notice*, the Bureaus proposed upfront payments for each construction permit taking into account various factors related to the efficiency of the auction process and the potential value of similar spectrum and sought comment on this proposal. The Bureaus received no comments in response to the proposed upfront payments. The specific upfront payments and bidding units for each construction permit are set forth in Attachment A of this Public Notice.

97. In calculating its upfront payment amount, an applicant should determine the **maximum** number of bidding units on which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units.<sup>136</sup> In order to make this calculation, an applicant should add together the upfront payments for all construction permits on which it seeks to be active in any given round. **Applicants should check their calculations carefully, because it is not possible to increase a bidder’s eligibility after the upfront payment deadline.**

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<sup>132</sup> See *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17 ¶¶ 40-42; 47 C.F.R. § 1.2106(a); see *supra* Section II.F. “Provisions Regarding Former and Current Defaulters.”

<sup>133</sup> 47 C.F.R. § 1.2110(c).

<sup>134</sup> *Auction No. 70 Comment Public Notice* at 4.

<sup>135</sup> Provisionally winning bids are bids that would become final winning bids if the auction were to close after the given round. See *infra* Section IV.B.4. “Provisionally Winning Bids.”

<sup>136</sup> In some cases a qualified bidder’s maximum eligibility may be less than the amount of its upfront payment because the qualified bidder has either previously been in default on a Commission license or delinquent on non-tax debt owed to a Federal agency (see 47 C.F.R. § 1.2106(a)), or has submitted an upfront payment that exceeds the total amount of bidding units associated with the construction permits it selected on its FCC Form 175 application.

**Example: Upfront Payments and Bidding Flexibility**

MM-FM502-A	New Hope, AL	90,000	\$90,000
MM-FM503-A	Pine Level, AL	20,000	\$20,000

If a bidder wishes to bid on both construction permits in a round, it must have selected both on its FCC Form 175 and purchased at least 110,000 bidding units (90,000 + 20,000). If a bidder only wishes to bid on one, but not both, purchasing 90,000 bidding units would meet the initial eligibility requirement for either construction permit.<sup>137</sup> The bidder would be able to bid on either construction permit, **but not both at the same time**. If the bidder purchased only 20,000 bidding units, it would have enough eligibility for the Pine Level, AL, construction permit but not for the New Hope, AL, construction permit.

98. "Former defaulters" should calculate their upfront payment for all construction permits by multiplying the number of bidding units on which they wish to be active by 1.5.<sup>138</sup> In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit. If a "former defaulter" fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the construction permits for which the applicant applied on its FCC Form 175, the applicant will not be eligible to participate in the auction.

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

99. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information listed below be supplied to the FCC. Applicants can provide the information electronically during the initial short-form application filing window after the application has been submitted. (Applicants are reminded that information submitted as part of an FCC Form 175 will be available to the public; for that reason, wire transfer information should **not** be included in an FCC Form 175.) Wire Transfer Instructions can also be manually sent by facsimile to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418-2843. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418-0578.

Name of Bank  
 ABA Number  
 Address of Bank  
 Contact and Phone Number  
 Account Number to Credit  
 Name of Account Holder  
 FCC Registration Number (FRN)  
 Taxpayer Identification Number (see below)  
 Correspondent Bank (if applicable)  
 ABA Number  
 Account Number

<sup>137</sup> Bidders must also remain mindful of the need to maintain sufficient bidding activity during the auction. Discussion of the activity rule requirements may be found in Section IV.A.2. "Eligibility and Activity Rules," *infra*.

<sup>138</sup> See 47 C.F.R. § 1.2106(a).

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.<sup>139</sup>) Eligibility for refunds is discussed in Section V.E., below.

### E. Auction Registration

100. 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 construction permits for which they applied.

101. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID® cards that will be required to place bids, the Integrated Spectrum Auction System (ISAS) Bidder's Guide, and the Auction Bidder Line phone number.

102. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, March 1, 2007, should call (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

103. In the event that SecurID® cards are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacement registration material. Qualified bidders requiring the replacement of these items must call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

### F. Remote Electronic Bidding

104. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically and telephonically. Each applicant should indicate its bidding preference – electronic or telephonic – on the FCC Form 175. In either case, each authorized bidder must have its own SecurID® card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID® cards, while applicants with two or three authorized bidders will be issued three cards. **For security purposes, the SecurID® cards, the telephonic bidding telephone number, and the Integrated Spectrum Auction System (ISAS) Bidder's Guide are only mailed to the contact person at the contact address listed on the FCC Form 175.** Please note that each SecurID® card is tailored to a specific auction; therefore, SecurID® cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 70.

105. Please note that the SecurID® cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is closed.

106. Bidders are solely responsible for ensuring the security of their computer systems and their registration materials and for ensuring that only authorized bidders place bids on their behalf. The Commission assumes no responsibility or liability for these matters.

### G. Mock Auction – March 5, 2007

107. All qualified bidders will be eligible to participate in a mock auction on Monday, March 5, 2007. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

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<sup>139</sup> See 47 C.F.R. §1.1910.

#### IV. AUCTION EVENT

108. The first round of bidding for Auction No. 70 will begin on Wednesday, March 7, 2007. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is to be released approximately 10 days before the start of the auction.

##### A. Auction Structure

###### 1. Simultaneous Multiple Round Auction

109. In the *Auction No. 70 Comment Public Notice*, we proposed to auction all construction permits in Auction No. 70 in a single auction using the Commission's standard simultaneous multiple-round ("SMR") auction format.<sup>140</sup> As described further below, this type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual construction permits. A bidder may bid on, and potentially win, any number of construction permits. Typically, bidding remains open on all construction permits until bidding stops on every construction permit, unless a modified stopping rule is invoked.

110. MEI in its comments suggests that rather than keep bidding open until bidding stops on all permits, we close bidding on each permit once there has been no activity on that permit for six rounds.<sup>141</sup> MEI insists that keeping all permits open "increases the administrative costs for the new entrant bidder" because that bidder is "forced to continue monitoring each round of the bidding despite the fact that their allotment may not have had any activity for ten or more rounds."<sup>142</sup>

111. The Commission has found that in most circumstances an SMR auction format is the best method to advance the goals of competitive bidding.<sup>143</sup> This format generates the information about relative prices during the course of the auction and provides bidders with flexibility to pursue back-up strategies. Furthermore, an SMR auction format is likely to place construction permits in the hands of the bidders that are most likely to put the spectrum to effective and efficient use. MEI provides no specific reasons why these conclusions based on the public interest do not apply to this auction. Indeed, adoption of MEI's proposal would reduce the flexibility of bidders to implement backup strategies in response to price information developed as the auction continues. We therefore conclude that it is operationally feasible and appropriate to auction the FM broadcast stations construction permits through a simultaneous multiple round auction, and we decline to adopt MEI's proposal. Unless otherwise announced, bids will be accepted on all construction permits in each round of the auction until bidding stops on every construction permit.

###### 2. Eligibility and Activity Rules

112. In the *Auction No. 70 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the initial (maximum) eligibility (as measured in bidding units) for each bidder.<sup>144</sup> We received no comments concerning the eligibility rule.

113. Accordingly, we adopt the proposed use of upfront payments to determine initial (maximum) eligibility (as measured in bidding units) for Auction No. 70. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active. As noted earlier, each construction permit is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A on a bidding unit per dollar basis. Bidding units for a given construction permit do not change as prices rise during the auction. A bidder's upfront payment is not

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<sup>140</sup> *Auction No. 70 Comment Public Notice* at 2.

<sup>141</sup> MEI Comments at 4.

<sup>142</sup> *Id.*

<sup>143</sup> *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2366.

<sup>144</sup> *Auction No. 70 Comment Public Notice* at 4.

attributed to specific construction permits. Rather, a bidder may place bids on any of the construction permits selected on its FCC Form 175 as long as the total number of bidding units associated with those construction permits does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on or hold provisionally winning bids on in any single round, and submit an upfront payment amount covering that total number of bidding units. **The total upfront payment does not affect the total dollar amount a bidder may bid on any given construction permit.**

114. In order to ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

115. A bidder's activity level in a round is the sum of the bidding units associated with construction permits on which the bidder is active. A bidder is considered active on a construction permit in the current round if it is either the provisionally winning bidder at the end of the previous bidding round or if it submits a bid in the current round (*see* "Bid Amounts" in Section IV.B.3, *below*). The minimum required activity is expressed as a percentage of the bidder's current eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under "Auction Stages" in Section IV.A.3 and "Stage Transitions" in Section IV.A.4, *below*), we adopt them for Auction No. 70. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place bids in the auction.<sup>145</sup>

### 3. Auction Stages

116. In the *Auction No. 70 Comment Public Notice*, we proposed to conduct the auction in two stages and employ an activity rule. We further proposed that, in each round of Stage One, a bidder desiring to maintain its current bidding eligibility would be required to be active on construction permits representing at least 75 percent of its current bidding eligibility.<sup>146</sup> Finally, we proposed that in each round of Stage Two, a bidder desiring to maintain its current bidding eligibility would be required to be active on at least 95 percent of its current bidding eligibility. We also invited comment on conducting the auction with a single stage that would use an activity requirement of 100 percent. We received no comments on any of these proposals.

117. We, therefore, adopt our proposals for the activity rules and stages. Below are the activity levels for each stage of the auction. The Bureaus reserve the discretion to further alter the activity percentages before and/or during the auction.

118. **Stage One:** During the first stage of the auction, a bidder desiring to maintain its current bidding eligibility will be required to be active on construction permits representing at least 75 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding unless an activity rule waiver is used. During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by four-thirds (4/3).

119. **Stage Two:** During the second stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding unless an activity rule waiver is used. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's

<sup>145</sup> *See supra* Section IV.A.5. "Activity Rule Waivers."

<sup>146</sup> *Auction No. 70 Comment Public Notice* at 5.

provisionally winning bids and bids during the current round) by twenty-nineteenths (20/19).

120. **CAUTION:** *Since activity requirements increase in Stage Two, bidders must carefully check their activity during the first round following a stage transition to ensure that they are meeting the increased activity requirement. This is especially critical for bidders that have provisionally winning bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by either logging in to the FCC Auction System. Because the foregoing procedures have proven successful in maintaining the proper pace in previous auctions, we adopt them for Auction No. 70.*

#### 4. Stage Transitions

121. In the *Auction No. 70 Comment Public Notice*, we proposed that 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 provisionally winning bids, is approximately 20 percent or lower for three consecutive rounds of bidding.<sup>147</sup> We further proposed that the Bureaus would retain the discretion to change stages unilaterally by announcement during the auction. This determination, we proposed, would be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of construction permits (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.<sup>148</sup> We received no comments on this issue.

122. We believe that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 70. Thus, we adopt our proposal. The auction will start in Stage One and will generally advance to Stage Two when, in each of three consecutive rounds of bidding, the provisionally winning bids have been placed on 20 percent or less of the construction permits being auctioned (as measured in bidding units).<sup>149</sup> In addition, the Bureaus 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 construction permits (as measured in bidding units) on which there are new bids,<sup>150</sup> the number of new bids, and the percentage increase in revenue.

#### 5. Activity Rule Waivers

123. In the *Auction No. 70 Comment Public Notice*, we proposed that each bidder in the auction be provided with three activity rule waivers.<sup>151</sup> We received no comments on this issue. Therefore, we adopt our proposal that each bidder be provided three activity rule waivers. We are satisfied that providing three waivers over the course of the auction will give bidders a sufficient number of waivers and flexibility, while also safeguarding the integrity of the auction.

124. Bidders may use an activity rule waiver in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum activity level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. Activity rule waivers can be either applied proactively by the bidder (a "proactive waiver") or applied automatically by the FCC Auction System (an

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<sup>147</sup> The percentage of bidding units receiving new provisionally winning bids is reported as the "Stage Transition Percentage" on the Results tab of the FCC Auction System.

<sup>148</sup> *Auction No. 70 Comment Public Notice* at 5.

<sup>149</sup> The stage of the auction does not affect the auction stopping rules; the auction may conclude in Stage One. *See infra* Section IV.A.7. "Auction Stopping Rules."

<sup>150</sup> When monitoring activity for determining when to change stages, we may consider the percentage of bidding units of the construction permits receiving new provisionally winning bids, excluding any FCC-held construction permits.

<sup>151</sup> *Auction No. 70 Comment Public Notice* at 6.

“automatic waiver”) and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

125. The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round where a bidder’s activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility. If a bidder has no waivers remaining and does not satisfy the activity requirement, the FCC Auction System will permanently reduce the bidder’s eligibility, possibly curtailing or eliminating the bidder’s ability to place additional bids in the auction.

126. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the bidding round by using the “reduce eligibility” function in the FCC Auction System. In this case, the bidder’s eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in “Eligibility and Activity Rules” (see Section IV.A.2 above). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility even if the round has not yet closed.

127. Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the “apply waiver” function in the FCC Auction System) during a bidding round in which no bids are submitted, the auction will remain open and the bidder’s eligibility will be preserved. However, an automatic waiver applied by the FCC Auction System in a round in which there are no new bids or proactive waivers will not keep the auction open.

128. A bidder cannot submit a proactive waiver after submitting a bid in a round, and submitting a proactive waiver will preclude a bidder from placing any bids in that round. **Note: Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.**

## 6. Auction Stopping Rules

129. For Auction No. 70, the Bureaus proposed to employ a simultaneous stopping rule approach.<sup>152</sup> The Bureaus also sought comment on a modified version of the simultaneous stopping rule (“modified stopping rule”). The modified stopping rule would close the auction for all construction permits after the first round in which no bidder applies a waiver or submits any new bids on any construction permit on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

130. The Bureaus further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted in a round. In this event, the effect will be the same as if a bidder had applied a waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

131. In addition, we proposed that the Bureaus reserve the right to declare that the auction will end after a specified number of additional rounds (“special stopping rule”). If the Bureaus invoke this special stopping rule, they will accept bids in the specified final round(s) and the auction will close.

132. We proposed to exercise these options only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time.<sup>153</sup> We noted that before exercising these options, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of

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<sup>152</sup> *Id.* at 3.

<sup>153</sup> *Id.*

bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of construction permits where there is still a high level of bidding activity.

133. We received no comments on the proposals about stopping rules. We find that the proposed stopping rules are appropriate for Auction No. 70, because our experience in prior auctions demonstrates that these stopping rules balance interests of administrative efficiency and maximum bidder participation.

Therefore we adopt the proposals made in the *Auction No. 70 Comment Public Notice*. Auction No. 70 will begin under the simultaneous stopping rule approach, and the Bureaus will retain the discretion to employ the other versions of the stopping rule. Moreover, the Bureaus will retain the discretion to use the modified stopping rule with or without prior announcement during the auction.

## **7. Auction Delay, Suspension, or Cancellation**

134. In the *Auction No. 70 Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding.<sup>154</sup> We received no comment on this issue.

135. Because our approach to notification of delay during an auction has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed rules regarding auction delay, suspension, or cancellation. By public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

## **B. Bidding Procedures**

### **1. Round Structure**

136. 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.

137. The Bureaus have the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureaus 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.

### **2. Reserve Price and Minimum Opening Bids**

138. Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses or construction permits are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.<sup>155</sup> Consistent with this mandate, the Commission directed the Bureaus to seek comment on

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<sup>154</sup> *Id.* at 4.

<sup>155</sup> 47 U.S.C. § 309(j)(4)(F).

the use of a minimum opening bid and/or reserve price prior to the start of each auction.<sup>156</sup> Among other factors, the Bureaus must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned.<sup>157</sup> The Commission concluded that the Bureaus should have the discretion to employ either or both of these mechanisms for future auctions.<sup>158</sup> This is consistent with policy applied in earlier spectrum auctions, including Auction Nos. 25, 27, and 54 (Closed Broadcast); Auction No. 32 (AM Broadcast); and Auction Nos. 37 and 62 (FM Broadcast).

139. In the *Auction No. 70 Comment Public Notice*, the Bureaus proposed to establish minimum opening bids for Auction No. 70, reasoning that a minimum opening bid, successfully used in other broadcast auctions, is a valuable tool, effectively regulating the pace of the auction.<sup>159</sup> Specifically, a minimum opening bid was proposed for each construction permit listed in Attachment A. The minimum opening bid was determined by taking into account various factors relating to the efficiency of the auction and the potential value of the spectrum, including the type of service and class of facility offered, market size, population covered by the proposed FM broadcast facility, industry cash flow data, and recent broadcast transactions. The Bureaus sought comment on the proposed minimum opening bids. In the alternative, the Bureaus sought comment on whether, consistent with the Section 309(j), the public interest would be served by having no minimum opening bid or reserve price.<sup>160</sup>

140. We received two sets of comments on these issues. MEI objects to the setting of “significantly large” minimum opening bids.<sup>161</sup> According to MEI, the final bids for construction permits have little to do with the original minimum opening bids, but rise to an appropriate valuation through the bidding process.<sup>162</sup> As an alternative to a minimum opening bid, MEI proposes that we “increase the maximum multiple bids permitted” to three times the current bid in ten percent increments “to separate the serious from the non-serious bidders quickly.”<sup>163</sup> In Commission auctions, minimum opening bids are intended to serve as useful starting points for bidding. The Bureaus are not persuaded that the minimum opening bids previously proposed for each construction permit in Auction No. 70 are too large, or that an increase in the maximum bid increments is an effective substitute for a minimum opening bid. Based on experience in using minimum opening bids in other auctions, the Bureaus believe that minimum opening bids speed the course of the auction and ensure that valuable assets are not sold for nominal prices, without unduly interfering with the efficient awarding of construction permits.<sup>164</sup>

141. In addition, Carrie LeAnn Riordan (“Riordan”) seeks to reduce the minimum opening bid amount for MM-FM 620-A, Ephraim, Wisconsin, Channel 295A. As the original proponent of the FM allotment, Riordan asserts that the proposed minimum opening bid figure of \$7,500 is excessive, given the geographic and environmental challenges that will in all probability severely limit the tower placement and thus ultimately affect the spacing characteristics for the new FM facility. Riordan further contends that a similar Class A FM property in the same service area as Ephraim, Channel 286A, Sister Bay, Wisconsin, was

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<sup>156</sup> See *Part 1 Third Report and Order*, 13 FCC Rcd at 455-456 ¶ 141.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Auction No. 70 Comment Public Notice* at 6.

<sup>160</sup> *Auction No. 70 Comment Public Notice* at 6-7.

<sup>161</sup> MEI Comments at 2.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> See 47 U.S.C. 309(j)(3)(C).

successfully auctioned in Auction No. 62 with a minimum opening bid amount of \$5,000. Moreover, the area within the 60 dBu contour of the proposed Ephraim FM facility contains approximately 5,000 year-round residents, she argues. Under these circumstances, we are persuaded that lowering the minimum opening bid amount for Ephraim, Wisconsin, Channel 295A, to \$5,000 would serve the public interest.

142. We conclude that the proposed minimum opening bid amounts with the exception of Ephraim, Wisconsin, are appropriate, and we adopt those proposed amounts. We did not receive any comments in response to the proposal in the *Auction No. 70 Comment Public Notice* that the Bureaus would retain the discretion to lower the minimum opening bid amounts. Thus, we adopt this proposal. The minimum opening bid amounts we adopt for Auction No. 70 are reducible at the discretion of the Bureaus. 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 Bureaus will not entertain requests to reduce the minimum opening bid amount on specific construction permits. We note that effectively the minimum opening bid amounts operate as reserve prices.

143. The specific minimum opening bid amounts for each construction permit available in Auction No. 70 are set forth in Attachment A.

### 3. Bid Amounts

144. In the *Auction No. 70 Comment Public Notice*, the Bureaus proposed that in each round, eligible bidders be able to place a bid on a given construction permit in any of nine different amounts. Under the proposal, the FCC Auction System interface will list the nine acceptable bid amounts for each construction permit. MEI proposed that, as an alternative to using “large” minimum opening bids, the Commission should increase the number of acceptable bid amounts so that the maximum acceptable bid amount is three times higher than the current bid “to separate the serious from the non-serious bidders quickly.”<sup>165</sup> As discussed above, we believe that the minimum opening bid amounts and the number of additional bid amounts that we have established for this auction should help ensure that the bidding moves at a sufficient pace and will help promote an efficient outcome.<sup>166</sup> Based on experience in prior auctions, the Bureaus adopt this proposal.

145. The first of the nine acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a construction permit will be equal to its minimum opening bid amount until there is a provisionally winning bid for the construction permit. After there is a provisionally winning bid for a permit, the minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage. For example, if the minimum acceptable bid percentage is 10 percent, the minimum acceptable bid amount will equal (provisionally winning bid amount) \* (1.10). We will round the result using our standard rounding procedures.<sup>167</sup>

146. In the *Auction No. 70 Comment Public Notice*, we proposed to use a minimum acceptable bid percentage of 10 percent. The Bureaus did not receive any comments on this proposal. Our experience in the previous FM auctions assures us that a bid increment percentage of 10 percent is sufficient to ensure active bidding. Therefore, we will begin the auction with a minimum acceptable bid percentage of 10 percent.

147. The eight additional bid amounts are calculated using the minimum acceptable bid amount and a bid increment percentage. The first additional acceptable bid amount equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded. If, for example, the increment percentage is 10 percent, the calculation is (minimum acceptable bid amount) \* (1 + 0.10), rounded, or (minimum acceptable bid amount) \* 1.10, rounded; the second additional acceptable bid amount equals the minimum acceptable bid

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<sup>165</sup> See MEI Comments at 2.

<sup>166</sup> Additional discussion of MEI’s comments on this subject may be found at Section IV.B.2., “Reserve Price and Minimum Opening Bids,” *supra*.

<sup>167</sup> Results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$100.

amount times one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) \* 1.20, rounded; the third additional acceptable bid amount equals the minimum acceptable bid amount times one plus three times the bid increment percentage, rounded, or (minimum acceptable bid amount) \* 1.30, rounded; etc. We will round the results of these calculations using our standard rounding procedures.<sup>168</sup> Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

148. In the *Auction No. 70 Comment Public Notice*, we proposed to use a bid increment percentage of 10 percent. We received no comment on this issue. We believe that a bid increment percentage of 10 percent will give bidders the flexibility to speed up the pace of the auction, if appropriate. We therefore adopt our proposal, and will begin the auction with a bid increment percentage of 10 percent.

149. The Bureaus did not receive any comments on their proposal to retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if they determine that circumstances so dictate. The Bureaus will do so by announcement in the FCC Auction System during the auction.

#### 4. Provisionally Winning Bids

150. At the end of each bidding round, a “provisionally winning bid” will be determined based on the highest bid amount received for each construction permit. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same construction permit at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.<sup>169</sup>

151. In the *Auction No. 70 Comment Public Notice*, the Bureaus proposed to use a random number generator to select a single provisionally winning bid in the event of identical high bid amounts being submitted on a construction permit in a given round (*i.e.*, tied bids).<sup>170</sup> No comments were received on this proposal. Therefore, the Bureaus adopt their proposal.

152. A pseudo-random number generator based on the L’Ecuyer algorithms will be used to assign a random number to each bid.<sup>171</sup> The tied bid with the highest random number wins the tiebreaker, and becomes the provisionally winning bid. The remaining eligible bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the selected provisionally winning bid.

#### 5. Bidding

153. During a round, a bidder may submit bids for as many construction permits as it wishes (providing that it is eligible to bid), remove bids placed in the current bidding round, or permanently reduce eligibility. Bidders also have the option of submitting and removing multiple bids during a round. If a bidder submits multiple bids for a single construction permit 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 construction permits for which the bidder has removed its bid do not count towards the bidder’s current activity.

154. All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction No. 70. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to

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<sup>168</sup> *Id.*

<sup>169</sup> See *supra* Section IV.A.2. “Eligibility and Activity Rules.”

<sup>170</sup> *Auction No. 70 Comment Public Notice* at 7 and 8.

<sup>171</sup> A description of the L’Ecuyer algorithms can be found in L’Ecuyer, P. (1999) “Good Parameters and Implementations for Combined Multiple Recursive Random Number Generators” *Operations Research* 47 (1), pp.159-164. A longer version of this paper and the C code for the algorithms can be found on the author’s website at <http://www.iro.umontreal.ca/~lecuyer/papers.html>.

allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a telephonic bid submission.

155. A bidder's ability to bid on specific construction permits is determined by two factors: (1) the construction permits selected on the bidder's FCC Form 175 and (2) the bidder's eligibility. The bid submission screens will allow bidders to submit bids on only those construction permits the bidder selected on its FCC Form 175.

156. In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the passcode generated by the SecurID® card and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a "round summary" for each round after they have completed all of their activity for that round.

157. In each round, eligible bidders will be able to place bids on a given construction permit in any of nine different amounts.<sup>172</sup> For each construction permit, the FCC Auction System will list the nine acceptable bid amounts in a drop-down box.<sup>173</sup> Bidders use the drop-down box to select from among the acceptable bid amounts. The FCC Auction System also includes an "upload" function that allows bidders to upload text files containing bid information.

158. Until a bid has been placed on a construction permit, the minimum acceptable bid amount for that construction permit will be equal to its minimum opening bid amount. Once there are bids on a construction permit, minimum acceptable bids for a construction permit for the following round will be determined as described in Section IV.B.3.

## 6. Bid Removal

159. In the *Auction No. 70 Comment Public Notice*, the Bureaus proposed bid removal procedures.<sup>174</sup> Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bids" function in the FCC Auction System, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is removed does not count toward bidding activity. Once a round closes, a bidder may no longer remove a bid. We received no comments on the issue of bid removals. These removal procedures will enhance bidder flexibility during the auction. Therefore, the Bureaus adopt their proposed procedures concerning bid removals for Auction No. 70.

## 7. Bid Withdrawal

160. Once a round closes, a bidder may no longer remove a bid. In the *Auction No. 70 Comment Public Notice*, the Bureaus proposed bid withdrawal procedures.<sup>175</sup> The Bureaus proposed to prohibit bidders from withdrawing any bids after the round in which bids were placed has closed. This proposal was made in recognition of the site-specific nature and wide geographic dispersion of the permits available in this auction. As an alternative, the Bureaus sought comment on whether to permit each bidder to withdraw provisionally winning bids in no more than one round during the course of the auction. The Bureaus received one comment on the issue of bid withdrawal.

161. Steven R. Bartholomew, in his comments, notes that he believes that bid withdrawals are a necessary consequence of the Commission's activity rules, which, according to Bartholomew, encourage

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<sup>172</sup> Bidders must have sufficient eligibility to place a bid on the particular construction permit. *See supra* Section III.D.3. "Upfront Payments and Bidding Eligibility"

<sup>173</sup> In the event of duplicate bid amounts due to rounding, the FCC Auction System will omit the duplicates and will list fewer than nine acceptable bid amounts for the construction permit.

<sup>174</sup> *Auction No. 70 Comment Public Notice* at 9.

<sup>175</sup> *Auction No. 70 Comment Public Notice* at 9.

bidders to “park” their bids on undesired allotments in order to avoid raising the prices of construction permits they are interested in winning. He claims that eliminating withdrawals would “have a chilling effect on bidding, significantly reducing auction revenue.”<sup>176</sup>

162. We reject Bartholomew’s arguments and note that our auction procedures, including our activity rules, are designed to encourage participation by all interested parties, ensure efficient and reasonably speedy auctions, and promote straightforward bidding by auction participants, so that the auction mechanism will assign the permits directly to the parties that are most likely to put the spectrum to effective and efficient use.

163. Our experience with auctions generally, and with past FM auctions in particular, convinces us that bid withdrawals are unnecessary in FM broadcast auctions. Because of the stand-alone nature of FM facilities, it is not necessary for bidders to aggregate facilities being offered in the same FM auction in order to realize full value from those facilities, or to put the spectrum to effective and efficient use. On the other hand, evidence suggests that some bidders may have used the bid withdrawal mechanism improperly to keep new facilities out of the hands of competitors, thus delaying implementation of new service. Accordingly, we adopt our proposal prohibiting bid withdrawals in FM Auction No. 70.<sup>177</sup> Bidders are cautioned to select bid amounts carefully because no bid withdrawals will be allowed in Auction No. 70, even if a bid was mistakenly or erroneously made.

#### **8. Round Results**

164. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureaus will compile reports of all bids placed, current provisionally winning bids, new minimum acceptable bid amounts for the following round, whether the construction permit is FCC held, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders’ identities for Auction No. 70 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.

#### **9. Auction Announcements**

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

### **V. POST-AUCTION PROCEDURES**

#### **A. Down Payments**

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

167. 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. 70 to 20 percent of the net amount of its winning bids (gross bids less any applicable new entrant bidding credits).<sup>178</sup>

#### **B. Final Payments**

168. Recognizing the public benefit of maintaining a consistent set of auction procedures across the various auctionable services, in the *CSEA/Part 1 Report and Order*, the Commission recently conformed the

<sup>176</sup> Bartholomew Comments at second unnumbered page.

<sup>177</sup> Bartholomew also submitted comments on interim withdrawal payments. His comments on this issue were rendered moot due to the decision of the Bureaus that there will be no withdrawals in this auction.

<sup>178</sup> See 47 C.F.R. § 1.2107(b).

broadcast final payment procedures to the analogous Part 1 requirements.<sup>179</sup> Specifically, the Part 1 rules provide that, unless otherwise specified by public notice, auction winners are required to pay the balance of their winning bids in a lump sum within ten business days following the release of a public notice establishing the payment deadline.<sup>180</sup> In recent spectrum auctions, the Commission has required each winning bidder to submit the balance of the net amount of its winning bid(s) within ten business days after the deadline for submitting down payments. Consistent with this approach, in the *Auction No. 70 Comment Public Notice*, the Bureaus announced that for this auction 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.<sup>181</sup>

169. In his comments,<sup>182</sup> Kevin M. Fitzgerald argues that this final payment timing is unfair in light of the length of time it may take before an FM station construction permit is granted, due to potential processing delays or application denials caused by international or Federal Aviation Administration (FAA) coordination.<sup>183</sup> Mr. Fitzgerald urges that the Bureaus adopt final payment procedures for FM Auction No. 70 identical to the final payment requirements used in FM Auction Nos. 37 and 62, before the rule revision in the *CSEA/Part 1 Report and Order*. In considering Mr. Fitzgerald's arguments, we observe first that the same arguments were considered and rejected by the Commission in the rulemaking proceeding, where it was noted that this procedural change was necessary to limit the potential for post-auction bankruptcies to affect the payment obligations of winning bidders, as well as serving the goal of ensuring that only serious, financially qualified applicants receive licenses and construction permits so that the provision of service to the public is expedited.<sup>184</sup> Second, the rulemaking proceeding, not this auction procedures proceeding, was the appropriate forum for consideration of this issue. Fitzgerald's proposed changes to the final payment rules are outside of the scope of this proceeding. Accordingly, the Bureaus adopt the final payment deadline as specified in the *Auction No. 70 Comment Public Notice*. The balance of the net amount of each winning bid will be due within ten business days after the deadline for submitting down payments.

### C. Long-Form Application

170. MEI comments that, given the newly adopted final payment rules, it would appear unnecessary for the long form applications to be filed within 30 days of the auction, and asks that applicants be given greater latitude in when they are required to file the FCC form 301.<sup>185</sup> However, the 30-day period for filing Form 301 is dictated by the Commission's Rules,<sup>186</sup> and therefore, the Bureaus cannot implement MEI's proposed change of this filing deadline. Accordingly, within thirty days after the release of the auction closing notice, winning bidders must electronically submit a properly completed FCC Form 301, Application for FM Construction Permit, and required exhibits for each construction permit won through Auction No. 70. Winning bidders claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit.<sup>187</sup> Further filing instructions will be provided to auction winners at the close of the auction.

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<sup>179</sup> See *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 891.

<sup>180</sup> 47 C.F.R. § 1.2109(a).

<sup>181</sup> See *id.*

<sup>182</sup> Comments of Kevin M. Fitzgerald at 1-2.

<sup>183</sup> Mr. Fitzgerald specifically notes that the FAA is proposing to require FAA review of all FCC broadcast applications. Comments of Kevin M. Fitzgerald at 1-2.

<sup>184</sup> *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 907-09.

<sup>185</sup> MEI Comments at 6-7.

<sup>186</sup> 47 C.F.R. § 73.5005(a).

<sup>187</sup> 47 C.F.R. §§ 1.2112(b) and 73.5005.

#### D. Default and Disqualification

171. Any winning 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 C.F.R. § 1.2104(g)(2). The payments include both a deficiency payment, equal to the difference between the amount of the bidder's bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less. Pursuant to recent modifications to the rule governing default payments, the percentage of the applicable bid to be assessed as an additional payment for defaults in a particular auction is established in advance of the auction. Accordingly, in the *Auction No. 70 Comment Public Notice*, we proposed to set the additional default payment for the auction of the FM broadcast construction permits at twenty percent (20%) of the applicable bid. We sought comment on our proposal. No comments were received on this proposal. Based on our experience and the record before us, we will set the additional default payment for this auction of FM broadcast construction permits at twenty percent (20%) of the applicable bid.

172. Finally, we note that in the event of a default, the Commission may re-auction the construction permit or offer it to the next highest bidder (in descending order) at its final bid amount.<sup>188</sup> 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 authorizations held by the applicant.<sup>189</sup>

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

173. All applicants that submit upfront payments but after the close of the auction are not winning bidders for a construction permit in Auction No. 70 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. 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.

174. 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 and have no remaining bidding eligibility may also be eligible for a refund of their upfront payment before the close of the auction. If an applicant has completed the refund instructions electronically, the refund will be sent automatically. If an applicant has not completed the refund instructions electronically, a written request must be submitted for the refund and include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund requests to:

Federal Communications Commission  
Financial Operations Center  
Auctions Accounting Group  
Gail Glasser  
445 12th Street, SW, Room 1-C864  
Washington, DC 20554

175. Bidders are encouraged to file their refund information electronically using the **Refund Information** icon found on the *Auction Application Manager* page or through the **Wire Transfer for Refund Purposes** link available in various locations throughout the FCC Auction System, but bidders may also send their information by facsimile 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.

<sup>188</sup> See 47 C.F.R. § 1.2109(b) and (c).

<sup>189</sup> 47 C.F.R. § 1.2109(d).

176. Following the close of the auction, the Commission may refund upfront monies on deposit that exceed the required final payment amounts. Such refunds will be made to the payer of record as identified on the *FCC Form 159*, provided the necessary refund request and wire transfer instructions have been received.

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

## VI. CONTACTS

177. List of Commission staff contacts:

### **Media Contact:**

For press inquiries: Chelsea Fallon (202) 418-7991

### **Audio Division, Media Bureau:**

For service rule questions: Lisa Scanlan or Thomas Nessinger at (202) 418-2700

### **Auctions and Spectrum Access Division:**

For legal questions: Lynne Milne at (202) 418-0660

For general auction questions: Jeff Crooks at (202) 418-0660 or Linda Sanderson at (717) 338-2868

To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

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## Auction No. 70 - FM Broadcast

DA 06-2248

### Attachment A

Construction Permit	Market Name		Channel	Class	Coordinates								Bidding Units	Upfront Payment	Minimum Opening Bid
	State	City			Latitude				Longitude						
MM-FM502-A	AL	New Hope	278	A	34	34	50	N	86	25	17	W	90,000	\$90,000	\$90,000
MM-FM503-A	AL	Pine Level	248	A	31	59	33	N	86	0	5	W	20,000	\$20,000	\$20,000
MM-FM504-A	AL	St. Florian	274	A	34	50	12	N	87	37	27	W	120,000	\$120,000	\$120,000
MM-FM505-A	AR	Arkadelphia	228	A	34	7	10	N	93	10	43	W	20,000	\$20,000	\$20,000
MM-FM506-A	AR	Bearden	224	A	33	43	24	N	92	36	54	W	20,000	\$20,000	\$20,000
MM-FM507-A	AR	Paragould	257	A	36	6	55	N	90	26	53	W	50,000	\$50,000	\$50,000
MM-FM508-A	AR	Rison	255	A	33	56	30	N	92	12	13	W	20,000	\$20,000	\$20,000
MM-FM509-C3	AZ	Aguila	297	C3	33	56	34	N	113	10	24	W	10,000	\$10,000	\$10,000
MM-FM510-A	AZ	Chino Valley	223	A	34	46	10	N	112	31	3	W	15,000	\$15,000	\$15,000
MM-FM511-C2	AZ	Heber	288	C2	34	25	53	N	110	35	36	W	7,500	\$7,500	\$7,500
MM-FM512-A	AZ	Huachuca City	232	A	31	32	30	N	110	23	20	W	50,000	\$50,000	\$50,000
MM-FM513-C3	AZ	Overgaard	232	C3	34	23	27	N	110	33	9	W	5,000	\$5,000	\$5,000
MM-FM514-C3	AZ	Parker	247	C3	34	3	11	N	114	17	18	W	15,000	\$15,000	\$15,000
MM-FM515-A	AZ	Patagonia	251	A	31	33	5	N	110	44	45	W	20,000	\$20,000	\$20,000
MM-FM516-A	AZ	Rio Rico	300	A	31	24	0	N	110	57	30	W	30,000	\$30,000	\$30,000
MM-FM517-C2	AZ	Snowflake	258	C2	34	30	48	N	110	4	40	W	40,000	\$40,000	\$40,000
MM-FM518-C3	AZ	Taylor	278	C3	34	27	54	N	110	5	26	W	20,000	\$20,000	\$20,000
MM-FM519-A	CA	Burney	225	A	40	52	56	N	121	39	34	W	10,000	\$10,000	\$10,000
MM-FM520-C3	CA	McKinleyville	236	C3	40	56	42	N	124	5	54	W	90,000	\$90,000	\$90,000
MM-FM521-A	CA	Willow Creek	253	A	40	56	50	N	123	37	10	W	5,000	\$5,000	\$5,000
MM-FM522-A	CO	Arriba	240	A	39	17	12	N	103	16	30	W	2,500	\$2,500	\$2,500
MM-FM523-A	CO	Aspen	228	A	39	11	24	N	106	49	6	W	40,000	\$40,000	\$40,000
MM-FM524-C1	CO	Cheyenne Wells	224	C1	38	49	16	N	102	21	9	W	10,000	\$10,000	\$10,000
MM-FM525-C3	CO	Flagler	283	C3	39	17	17	N	103	8	32	W	2,500	\$2,500	\$2,500
MM-FM526-A	CO	Hugo	222	A	39	8	10	N	103	28	10	W	2,500	\$2,500	\$2,500
MM-FM528-C1	CO	Stratton	246	C1	39	18	34	N	102	33	17	W	10,000	\$10,000	\$10,000
MM-FM529-A	FL	Key West	244	A	24	33	6	N	81	47	48	W	30,000	\$30,000	\$30,000
MM-FM530-A	GA	Lincolnton	254	A	33	40	37	N	82	30	18	W	40,000	\$40,000	\$40,000
MM-FM531-A	GA	Patterson	296	A	31	23	12	N	82	6	18	W	40,000	\$40,000	\$40,000
MM-FM532-A	GA	Pineview	226	A	32	0	44	N	83	28	19	W	30,000	\$30,000	\$30,000
MM-FM533-A	GA	Plainville	285	A	34	25	58	N	85	5	48	W	150,000	\$150,000	\$150,000
MM-FM534-A	GA	Wadley	227	A	32	52	0	N	82	24	15	W	20,000	\$20,000	\$20,000
MM-FM535-A	GA	Woodbury	233	A	32	54	40	N	84	28	24	W	50,000	\$50,000	\$50,000
MM-FM536-A	GA	Young Harris	236	A	34	56	0	N	83	50	54	W	50,000	\$50,000	\$50,000
MM-FM537-A	HI	Kailua-Kona	244	A	19	38	26	N	155	59	44	W	40,000	\$40,000	\$40,000
MM-FM538-A	IA	North English	246	A	41	27	15	N	92	7	21	W	15,000	\$15,000	\$15,000
MM-FM539-A	IL	Abingdon	252	A	40	42	28	N	90	19	47	W	40,000	\$40,000	\$40,000
MM-FM540-A	KY	Burgin	290	A	37	48	37	N	84	41	30	W	200,000	\$200,000	\$200,000
MM-FM541-A	KY	Morgantown	256	A	37	15	34	N	86	48	40	W	40,000	\$40,000	\$40,000
MM-FM542-A	KY	Science Hill	291	A	37	10	36	N	84	29	10	W	70,000	\$70,000	\$70,000
MM-FM543-A	LA	Bordelonville	280	A	31	10	18	N	91	43	9	W	10,000	\$10,000	\$10,000
MM-FM544-A	LA	Leesville	224	A	31	7	40	N	93	8	3	W	40,000	\$40,000	\$40,000
MM-FM545-A	ME	Monticello	234	A	46	24	20	N	67	50	45	W	7,500	\$7,500	\$7,500
MM-FM546-A	MI	Custer	263	A	43	59	10	N	86	14	11	W	30,000	\$30,000	\$30,000
MM-FM547-A	MI	Frederic	237	A	44	46	29	N	84	39	29	W	20,000	\$20,000	\$20,000
MM-FM548-A	MI	Ludington	242	A	43	54	30	N	86	26	10	W	30,000	\$30,000	\$30,000
MM-FM549-A	MI	McBain	300	A	44	12	9	N	85	6	2	W	30,000	\$30,000	\$30,000
MM-FM550-C2	MI	Onaway	292	C2	45	26	28	N	84	0	37	W	40,000	\$40,000	\$40,000
MM-FM551-A	MI	Paradise	234	A	46	37	42	N	85	2	18	W	1,500	\$1,500	\$1,500
MM-FM552-A	MO	Doolittle	283	A	37	55	1	N	91	55	18	W	50,000	\$50,000	\$50,000
MM-FM553-A	MO	Grandin	283	A	36	49	45	N	90	49	22	W	15,000	\$15,000	\$15,000
MM-FM554-A	MO	Lowry City	285	A	38	2	24	N	93	38	28	W	10,000	\$10,000	\$10,000
MM-FM555-C3	MO	Madison	247	C3	39	24	37	N	92	10	58	W	50,000	\$50,000	\$50,000
MM-FM556-A	MO	Marceline	256	A	39	44	42	N	92	52	33	W	15,000	\$15,000	\$15,000
MM-FM557-A	MO	Marquand	295	A	37	30	0	N	90	6	41	W	20,000	\$20,000	\$20,000

Construction Permit	Market Name		Channel	Class	Coordinates								Bidding	Upfront	Minimum
	State	City			Latitude				Longitude				Units	Payment	Opening Bid
MM-FM558-A	MS	Greenwood	277	A	33	32	19	N	90	4	27	W	40,000	\$40,000	\$40,000
MM-FM559-A	MS	Holly Springs	243	A	34	41	32	N	89	32	33	W	40,000	\$40,000	\$40,000
MM-FM560-A	MS	Marietta	250	A	34	30	20	N	88	27	18	W	50,000	\$50,000	\$50,000
MM-FM561-A	MS	Vardaman	258	A	33	46	13	N	89	15	26	W	20,000	\$20,000	\$20,000
MM-FM562-C1	MT	Lewistown	300	C1	47	3	45	N	109	25	39	W	10,000	\$10,000	\$10,000
MM-FM563-A	MT	Montana City	293	A	46	33	43	N	111	57	39	W	50,000	\$50,000	\$50,000
MM-FM564-A	NC	Garysburg	276	A	36	26	30	N	77	35	0	W	50,000	\$50,000	\$50,000
MM-FM565-A	NE	Firth	229	A	40	36	32	N	96	41	8	W	200,000	\$200,000	\$200,000
MM-FM566-C1	NE	Hyannis	250	C1	42	0	2	N	101	45	41	W	2,500	\$2,500	\$2,500
MM-FM567-C2	NE	Pierce	248	C2	42	11	30	N	97	28	0	W	70,000	\$70,000	\$70,000
MM-FM568-A	NH	Groveton	268	A	44	37	43	N	71	25	55	W	20,000	\$20,000	\$20,000
MM-FM569-A	NH	Pittsburg	246	A	45	2	25	N	71	21	17	W	2,500	\$2,500	\$2,500
MM-FM570-C2	NM	Las Vegas	283	C2	35	35	57	N	105	12	12	W	30,000	\$30,000	\$30,000
MM-FM571-C2	OK	Arnett	285	C2	36	2	45	N	99	56	22	W	10,000	\$10,000	\$10,000
MM-FM572-A	OK	Pawhuska	233	A	36	46	16	N	96	21	39	W	7,500	\$7,500	\$7,500
MM-FM573-C2	OK	Sayre	269	C2	35	17	28	N	99	38	23	W	30,000	\$30,000	\$30,000
MM-FM575-A	PA	Sykesville	240	A	41	3	1	N	78	49	21	W	70,000	\$70,000	\$70,000
MM-FM576-A	SC	Pendleton	240	A	34	38	49	N	82	46	37	W	200,000	\$200,000	\$200,000
MM-FM577-C	SD	Wall	299	C	43	59	47	N	102	13	7	W	90,000	\$90,000	\$90,000
MM-FM578-A	TN	Linden	267	A	35	37	47	N	87	45	9	W	20,000	\$20,000	\$20,000
MM-FM579-A	TN	Oliver Springs	291	A	36	5	12	N	84	21	25	W	200,000	\$200,000	\$200,000
MM-FM580-A	TN	Pigeon Forge	292	A	35	43	33	N	83	31	18	W	200,000	\$200,000	\$200,000
MM-FM581-C2	TX	Aspermont	226	C2	33	11	27	N	100	14	50	W	15,000	\$15,000	\$15,000
MM-FM582-C3	TX	Baird	243	C3	32	35	6	N	99	21	56	W	120,000	\$120,000	\$120,000
MM-FM583-A	TX	Ballinger	238	A	31	38	3	N	99	53	13	W	7,500	\$7,500	\$7,500
MM-FM584-C	TX	Balmorhea	283	C	31	8	42	N	103	36	54	W	40,000	\$40,000	\$40,000
MM-FM585-A	TX	Benavides	282	A	27	32	59	N	98	25	11	W	2,500	\$2,500	\$2,500
MM-FM586-C3	TX	Benjamin	237	C3	33	44	27	N	99	48	54	W	5,000	\$5,000	\$5,000
MM-FM587-A	TX	Big Wells	271	A	28	34	5	N	99	32	52	W	2,500	\$2,500	\$2,500
MM-FM588-A	TX	Bruni	293	A	27	29	12	N	98	51	0	W	5,000	\$5,000	\$5,000
MM-FM589-A	TX	Camp Wood	271	A	29	48	1	N	100	2	35	W	2,500	\$2,500	\$2,500
MM-FM590-C2	TX	Chidress	281	C2	34	12	44	N	100	15	55	W	10,000	\$10,000	\$10,000
MM-FM591-A	TX	Cotulla	242	A	28	30	22	N	99	12	46	W	10,000	\$10,000	\$10,000
MM-FM592-A	TX	Dilley	229	A	28	36	56	N	99	10	48	W	10,000	\$10,000	\$10,000
MM-FM593-C3	TX	Eagle Lake	237	C3	29	35	15	N	96	30	3	W	30,000	\$30,000	\$30,000
MM-FM594-A	TX	Eldorado	285	A	30	51	36	N	100	36	0	W	2,500	\$2,500	\$2,500
MM-FM595-A	TX	Eldorado	293	A	30	51	14	N	100	36	43	W	2,500	\$2,500	\$2,500
MM-FM596-A	TX	Elkhart	265	A	31	34	7	N	95	41	52	W	40,000	\$40,000	\$40,000
MM-FM597-A	TX	Encinal	273	A	28	6	40	N	99	27	15	W	1,500	\$1,500	\$1,500
MM-FM598-A	TX	Freer	288	A	27	49	20	N	98	38	4	W	2,500	\$2,500	\$2,500
MM-FM599-A	TX	George West	292	A	28	20	33	N	98	14	45	W	7,500	\$7,500	\$7,500
MM-FM600-A	TX	Goree	275	A	33	30	0	N	99	30	0	W	5,000	\$5,000	\$5,000
MM-FM601-C3	TX	Grapeland	232	C3	31	33	15	N	95	30	52	W	50,000	\$50,000	\$50,000
MM-FM602-A	TX	Hamilton	299	A	31	49	57	N	98	7	0	W	7,500	\$7,500	\$7,500
MM-FM603-A	TX	Hebbronville	254	A	27	20	15	N	98	46	45	W	5,000	\$5,000	\$5,000
MM-FM604-A	TX	Hewitt	294	A	31	24	52	N	97	11	23	W	150,000	\$150,000	\$150,000
MM-FM605-C3	TX	Junction	277	C3	30	22	51	N	99	47	59	W	5,000	\$5,000	\$5,000
MM-FM606-A	TX	Leakey	299	A	29	41	58	N	99	53	41	W	2,500	\$2,500	\$2,500
MM-FM607-C2	TX	Mason	281	C2	30	44	55	N	99	13	49	W	10,000	\$10,000	\$10,000
MM-FM608-C3	TX	Mason	269	C3	30	45	0	N	99	10	14	W	5,000	\$5,000	\$5,000
MM-FM609-C2	TX	Matador	221	C2	34	3	56	N	100	36	43	W	5,000	\$5,000	\$5,000
MM-FM610-C1	TX	Munday	270	C1	33	44	53	N	99	42	14	W	30,000	\$30,000	\$30,000
MM-FM611-A	TX	Pineland	256	A	31	8	48	N	93	56	53	W	10,000	\$10,000	\$10,000
MM-FM612-C3	TX	Rocksprings	235	C3	30	7	6	N	100	19	18	W	1,500	\$1,500	\$1,500
MM-FM613-A	TX	Sabinal	296	A	29	20	17	N	99	29	0	W	5,000	\$5,000	\$5,000
MM-FM614-A	TX	Savoy	297	A	33	42	58	N	96	24	9	W	90,000	\$90,000	\$90,000
MM-FM615-C3	TX	Sweetwater	221	C3	32	28	15	N	100	24	20	W	20,000	\$20,000	\$20,000
MM-FM616-C2	TX	Turkey	244	C2	34	10	6	N	100	46	46	W	2,500	\$2,500	\$2,500
MM-FM617-C3	TX	Weinert	266	C3	33	12	15	N	99	37	35	W	10,000	\$10,000	\$10,000

Construction Permit	Market Name		Channel	Class	Coordinates								Bidding	Upfront	Minimum
	State	City			Latitude				Longitude				Units	Payment	Opening Bid
MM-FM618-C3	WI	Boscobel	244	C3	43	8	4	N	90	42	19	W	50,000	\$50,000	\$50,000
MM-FM620-A	WI	Ephraim	295	A	45	10	12	N	87	7	46	W	5,000	\$5,000	\$5,000
MM-FM621-A	WI	Rosholt	263	A	44	40	12	N	89	23	45	W	70,000	\$70,000	\$70,000
MM-FM622-A	WV	Glenville	299	A	38	54	50	N	80	50	29	W	15,000	\$15,000	\$15,000
MM-FM623-A	WY	Bairoil	235	A	42	14	40	N	107	33	32	W	1,500	\$1,500	\$1,500
MM-FM624-C3	WY	Reliance	254	C3	41	40	9	N	109	11	47	W	30,000	\$30,000	\$30,000
MM-FM625-C	WY	Sinclair	267	C	41	46	19	N	107	13	40	W	15,000	\$15,000	\$15,000

**Auction Total                    121      Construction Permits**

**ATTACHMENT B  
FCC AUCTION NO. 70  
SEMINAR REGISTRATION FORM**

The FCC will sponsor a one-day seminar for Auction No. 70 applicants. The seminar is free of charge and will provide information about pre-auction procedures, service and auction rules, conduct of the auction, and the FCC Auction System.

Representatives from each company may attend on a reservation basis, first-come first-served until room capacity is filled. The seminar will be held:

Wednesday, December 6, 2006  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Registration 10:00 a.m. - 10:30 a.m.

Seminar 10:30 a.m. - 2:00 p.m.

If hotel accommodations are needed

Please contact 888-225-5322 (option #2) for a list of hotels in the area.

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To register, please provide the information listed below no later than  
Monday, December 4, 2006,  
by either:

E-mail: [Auchelp@fcc.gov](mailto:Auchelp@fcc.gov)

Facsimile: 717-338-2850

Phone: 717-338-2868

Note: The seminar will also be available via webcast and may be viewed by clicking on the Auction Seminar link on the Auction No. 70 web page, <http://wireless.fcc.gov/auctions/70/>. For further information about accessing FCC webcasts, please visit <http://www.fcc.gov/realaudio/>.

I/We will attend the Auction No. 70 Seminar, scheduled for Wednesday, December 6, 2006.

Name of attendee: \_\_\_\_\_

Name of attendee: \_\_\_\_\_

Company name: \_\_\_\_\_

Company address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**ATTACHMENT C****ELECTRONIC FILING AND REVIEW  
OF THE SHORT-FORM APPLICATION (FCC FORM 175)****APPLICATION PREPARATION AND SUBMISSION**

An applicant must submit its short-form application (FCC Form 175) electronically, via the FCC Auction System. **The FCC Form 175 applications must be submitted and confirmed prior to 6:00 p.m. ET on Tuesday, December 19, 2006.** Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants are reminded that all information required in connection with applications to participate in spectrum license auctions is necessary to determine each applicant's qualifications, and as such will be available for public inspection. Accordingly, an applicant should not include any unnecessary sensitive information, such as Taxpayer Identification Numbers or Social Security Numbers, in its short-form application. Applicants may request that information submitted not be made routinely available for public inspection following the procedures set forth in 47 C.F.R. § 0.459. Pursuant to Section 0.459(a), such requests must be included as an attachment to FCC Form 175 and identify the information to which the request applies. Because the required information bears on each applicant's qualifications, confidentiality requests will not be routinely granted.

Applicants may make multiple changes to their FCC Form 175 applications until the close of the filing window. However, applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission.

**A. Software Requirements**

Applicants must meet the following minimum software requirements:

- Web Browser:
  - Microsoft® Internet Explorer 6.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.4.2\_05 installed.
  - or
  - Netscape® Communicator™ 6.0 or higher, with Java Plug-In Version 1.4.2\_05.

Java Plug-In Version 1.4.2\_05 is available for downloading at [http://java.sun.com/products/archive/j2se/1.4.2\\_05/index.html](http://java.sun.com/products/archive/j2se/1.4.2_05/index.html) (choose the JRE version).

Other browsers are not supported.

- PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)

Currently, the Apple® Mac OS® is not supported.

**B. Logging On**

To submit an FCC Form 175 application electronically via the Internet, start your web browser and point it to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location).

Once on the *FCC Integrated Spectrum Auction System* page, an applicant may log in to create an FCC Form 175 application using its FCC Registration Number (FRN) and password.

### C. Application Filing Instructions

The on-line FCC Form 175 requests information needed to determine whether an applicant qualifies to participate in competitive bidding for Commission licenses or construction permits.<sup>190</sup> Pursuant to Section 1.2105(a), the FCC Form 175 must be submitted electronically. Applicants must submit required information as entries in the data fields of the electronic FCC Form 175 whenever a data field is available for that information. Attachments should not be used to provide information that can be supplied within the data fields of the electronic FCC Form 175.

The screens comprising FCC Form 175 consist of six series, each requesting six separate types of information: 1) *Applicant Information*; 2) *Permit Selection*; 3) *New Entrant Bidding Credit Eligibility*; 4) *Agreements*; 5) *Ownership*; and 6) *Certify and Submit*. In addition, *Summary* screens appear prior to the *Certify and Submit* screens. The *Summary* screens provide an overview of an applicant's FCC Form 175 that facilitates reviewing and revising specific information, as well as an automated check for certain inconsistencies and omissions in submitted information.

To simplify filling out FCC Form 175, certain initial information applicants provide is used to determine what additional information is needed, and what subsequent screens will appear to collect that information. For example, a corporate applicant, unlike an individual applicant, must identify a corporate officer or director responsible for the application (sometimes called a responsible party). If an applicant identifies itself as an individual, no additional information is needed regarding an additional responsible party, and screens requesting responsible party information will not appear. However, if the applicant identifies itself as a corporation, subsequent screens in the FCC Form 175 will ask for responsible party information.

Applicants should be able to fill out Form 175 by following the instructions below. Additional help in filling out FCC Form 175 can be accessed from the electronic FCC Form 175 in two ways: 1) by clicking on the **Help** link in the upper right of any screen, which will open Auction Application Online Filing Help; or 2) by clicking on the text of any **Common Question** link appearing on the right side of the screen. The common questions displayed relate to the current screen and vary from screen to screen. In the event the assistance provided by these sources is insufficient, filers should use the contact information provided in the *Procedures Public Notice* to obtain additional assistance.

#### 1. Applicant Information

The *Applicant Information* screens are the first series of screens in FCC Form 175. In the *Applicant Information* screens, the applicant will provide basic information including

- the applicant's legal classification, *e.g.*, individual, corporation, etc.
- optional information regarding the applicant's status as a minority- or woman-owned business or a rural telephone company
- whether the applicant requests Noncommercial Educational election. This response (yes or no) is

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<sup>190</sup> See generally, 47 C.F.R. § 1.2105.

mandatory.<sup>191</sup>

- the applicant's name, which will be used as the bidder name during the auction
- citizenship (for individuals), or jurisdiction of formation for legal entities
- *for applicants classified as legal entities, e.g., corporations and partnerships, the name of and information regarding the entity's responsible individual*
- the name, address, telephone and facsimile number of a contact person who will communicate with the Commission regarding the applicant's FCC Form 175
- the names of up to three persons authorized to bid for the applicant in the auction
- the applicant's preference for electronic or telephonic bidding
- whether the applicant claims a new entrant bidding credit and the percentage claimed.<sup>192</sup>

Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- Applicants must indicate their legal classification before continuing to subsequent screens, because the legal classification will determine which subsequent screens will appear.
- P.O. Boxes may not be used for an applicant's address.
- To simplify filling out the FCC Form 175, an applicant that has the same address as its contact person can click on the **COPY APPLICANT ADDRESS** button to automatically fill in the contact person's address. P.O. Boxes may not be used for a contact person's address.
- Applicants must identify at least one authorized bidder. While applicants may change their authorized bidders at a later date, in Auction No. 70 only those bidders listed on the FCC Form 175 will be authorized to place bids for the applicant during the auction.
- Any qualified bidder may bid either via the Internet or by telephone during the auction. Specifying a preference for electronic or telephonic bidding assists the Commission in determining the staff required for telephonic bidding.
- Any application for a noncommercial educational station that is mutually exclusive with any application for a commercial station will be returned as unacceptable for filing.<sup>193</sup>

## 2. Permit Selection

The *Permit Selection* screens make up the second series of screens in FCC Form 175. In the *Permit Selection* screens, the applicant will identify the construction permits (identified in FCC Form 175 as items) on which the applicant may wish to bid during the auction. Applicants are not obligated to bid on all construction permits selected; however, applicants will not be able to bid on construction permits that

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<sup>191</sup> Any application for a noncommercial educational station that is mutually exclusive with any application for a commercial station will be returned as unacceptable for filing. See *NCE Second Report and Order*, 18 FCC Rcd at 6699-6700. Applications specifying the same FM station construction permit are considered mutually exclusive.

<sup>192</sup> See 47 C.F.R. §§ 1.2105(a)(2)(ii)(A), (iii), and (iv), 73.5002(b), 73.5007 and 73.5008.

<sup>193</sup> See *NCE Second Report and Order*, 18 FCC Rcd at 6699-6700. Applications specifying the same FM station construction permit are considered mutually exclusive.

they have not selected on the FCC Form 175.<sup>194</sup> Be advised that there is no opportunity to change this list once the short-form filing deadline passes on December 19, 2006.

To participate in an auction, applicants must select at least one construction permit. Until the applicant selects a construction permit, the applicant cannot submit the FCC Form 175. An applicant's permit selections cannot be changed after the initial filing window has closed. Therefore, during the initial filing window it is important to carefully review permit selections to make sure all the construction permits on which the applicant may wish to bid have been selected.

The Permit Selection screen contains a listing of all available construction permits in the auction. Applicants can navigate within the Permit Selection screen by selecting the individual page links or the "Previous" and "Next" buttons above and below the list of available permits. In addition, applicants can use pre-defined filters to narrow down the list of permits for which they wish to select and save. Specifically, construction permits can be selected by either: 1) clicking the check box next to the construction permit name, then selecting the "Save Selected Items" button; 2) clicking the "Save all Items" button to save all available construction permits; or by 3) clicking the "Save All Filtered Items" button after applying a filter. Once the applicant has successfully saved a construction permit, the word "Saved" will appear next to the construction permit name to confirm that it has been saved with the application.

**NOTE:** Construction Permits selected on the Permit Selection screen will be automatically saved when navigating to another screen within the Auction Application by using the links and buttons provided on the screen.

Construction Permits can be removed by either: 1) clicking the check box (to uncheck) next to a previously saved construction permit, then selecting the "Remove Selected Items" button; 2) clicking the "Remove all Items" button to remove all previously saved construction permits; or by 3) clicking the "Remove All Filtered Items" button after applying a filter. Removed construction permits will not have the word "Saved" next to the construction permit name.

Applicants may view all saved construction permits by either clicking the **Edit Icon** next to "View Saved Items" at the top-right corner of the list, or by clicking the "CONTINUE" button at the bottom of the page.

Once construction permits have been saved, the View/Edit Permit Selections screen will be the first screen displayed when navigating to the Permit Selection step. This screen lists all construction permits the applicant has selected and saved for the auction. To select a new construction permit or remove a previously selected construction permit, click the **Edit Icon** next to "Return to Permit Selection" at the top-right corner of the list. This will take you to the original *Select Permits* screen, as described above.

**The reference coordinates are also displayed for each listed FM allotment. Once the applicant has selected and added an FM permit, the reference coordinates are followed by a "Edit" icon. Clicking this icon produces a page on which the applicant can change the reference coordinate values to preferred site coordinates.**<sup>195</sup> If the applicant previously has selected construction permits, the initial *Permit Selection* screen will be the *View/Edit Permit Selections* screen. This screen lists the construction permits previously selected for this auction. To select a new construction permit or remove a

<sup>194</sup> See 47 C.F.R. § 1.2105(a)(2)(i).

<sup>195</sup> See *Broadcast Competitive Bidding First Report and Order*, 13 FCC Rcd at 15974 and n.153.