

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

Auction of 700 MHz Band Licenses Scheduled )  
for July 19, 2011 )  
 )  
Comments Sought on Competitive Bidding ) AU Docket No. 10-248  
Procedures for Auction No. 92 )

To: Wireless Telecommunications Bureau

**REPLY COMMENTS**

Aloha Partners II, LP (“Aloha”), by counsel, hereby submits its reply comments in response to the Commission’s Public Notice in the captioned proceeding.<sup>1</sup> By these reply comments, Aloha urges the Commission to return to the “transparent” bidding procedures that were used prior to Auction No. 73.

**Discussion**

**1. The Auction Process Should be Transparent**

In the Commission’s Public Notice inviting comment on competitive bidding procedures for Auction No. 92, the Wireless Telecommunications Bureau (“the Bureau”):

“encouraged parties to provide information about the benefits and costs of complying with limited information procedures as compared with the benefits and

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<sup>1</sup> Public Notice in DA 10-2298, entitled “Comments Sought on Competitive Bidding procedures in Auction 92,” released December 15, 2010 (the “Public Notice”).

costs of alternative procedures that would provide for the disclosure of more information on bidder identities and interests in the auction.”<sup>2</sup>

For 14 years until 2008, all of the Commission’s auctions were “transparent”; meaning that detailed round by round bidding information was available after the end of each round. Beginning with Auction No. 73, the Commission instituted an “anonymous” bidding policy. While it is possible that there may be some economic benefit to anonymous bidding, there are also a number of major drawbacks. These drawbacks were highlighted in Auction No. 73 itself and have not come to light until recently.

One of the major advantages of a “transparent” bidding approach is that the participants can self-police to assure that the rules are being followed. Over the past decade there have been a number of instances where participants identified irregularities in auction bidding or results. These irregularities have quickly been addressed and remedied by the Bureau. With the advent of anonymous bidding in Auction No. 73, that self-policing aspect of the auction was eliminated. Only the Bureau staff can see what is going on and often times they do not have the resources to appreciate all the implications of different bidders’ actions. Full information about round-by-round results is not revealed until after the auction is over. Auction participants have little incentive to go back after the auction is over and reconstruct possible irregularities in bidding over the course of 150 rounds.

A prime example of how the anonymous bidding rules can have significant negative consequences occurred during Auction No. 73. Surprisingly, no one realized what had occurred until almost three years later. If one reviews the final results of Auction No. 73, one will find bidder #0003290673 (the “Bidder”) utilized 85 million more bidding units than it had eligibility to bid. The Bidder had a total of 306 million bidding units in Round 30, yet the Bidder was able to bid for licenses requiring 392 million bidding units. This error resulted in the Bidder buying over \$2 Billion worth of licenses that it did not have eligibility to purchase.

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<sup>2</sup> Public Notice, at 3. Aloha Partners II would like to respond to this request.

Specifically, in Round 30 of Auction No. 73, the Bidder placed a bid for the Great Lakes, Western, Hawaiian and Southeast regions in the “Upper C Block” that resulted in the regional bids for the “Upper C Block” exceeding the single nationwide bid that Google had placed for the “Upper C Block” license in Round 17. In the three previous rounds the Bidder had placed high bids in three other large regions (Northeast, Central and Mississippi Valley). These three bids did not count against the Bidder’s eligibility, because the total amount of all regional bids was less than the single nationwide bid of Google. However, when the Bidder placed the four new bids in Round 30, all seven of the Bidder’s high regional bids became active. This resulted in all the regional bids exceeding the single nationwide price that Google had offered. At that point the Bidder became the high bidder for the entire “Upper C Block”. However the Bidder had more winning bids than it had eligibility and ceased to participate in the auction.

Why was this irregularity never reported to the Commission? After Round 30 none of the other bidders realized what had happened, because they did not have access to the information that would help them analyze the results. At the end of the auction both no one noticed the discrepancy between the Bidder’s eligibility and the final number of bidding units or else no one had the incentive to investigate. **Anonymous bidding resulted in a \$2 Billion mistake.**

Contrast this situation with a similar problem in an auction just 2 years earlier that included “transparent” bidding. In the Air-To-Ground auction, Auction No. 65, a similar bidding irregularity related to bidding eligibility occurred in Round 8. Because the auction was “transparent”, at least one of the bidders was able to spot the irregularity and alert the Commission to the problem. Based upon that alert from a bidder,, the Commission temporarily suspended the auction, and addressed the bidding eligibility irregularity that was raised. five days later the Commission resumed the auction with no negative consequences. Had the Commission been using anonymous bidding, that auction would likely have resulted in another significant mistake.

One of the hallmarks of the Obama Administration and of Chairman Genachowski’s leadership at the Commission is transparency. Aloha Partners II agrees that transparency is a powerful tool that can shed light on abuses and mistakes. However, by implementing

anonymous bidding starting in Auction No.73, the Commission has inadvertently created an environment where auction irregularities and mistakes will go unchecked, because none of the participants will realize what happened until it is too late. Aloha Partners II recommends that the Commission return to “transparent” bidding rules in Auction No. 92, and thereby allow participants to view all the information after each round.

Respectfully submitted,

**ALOHA PARTNERS II, LP**

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