

increase iron bioavailability in human diets (Heimbach *et al.* 2000).

The results of toxicity testing and information found in published literature indicate there is no risk to human health or the environment from ferric sodium EDTA. Both dietary and non-dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern.

#### D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Dietary exposure from use of ferric sodium EDTA, as proposed, is minimal. Ferric sodium EDTA is intended for application to soil surfaces in agricultural crops, turf and ornamentals, and home gardens to control slugs and snails. The product is not applied directly to fruits, vegetables, or plant surfaces.

Ferric sodium EDTA is a commodity ingredient used in the photographic industry as a bleaching agent, used in agriculture as a micronutrient, and used in the chemical industry as a catalyst. Ferric sodium EDTA is also currently being evaluated as a way of fortifying foods to prevent anemia and iron deficiencies in developing countries. The components of ferric sodium EDTA are approved as direct food additives by FDA. Acute toxicity studies have shown that ferric sodium EDTA is not toxic or irritating to mammals. Further, a published safety assessment on ferric sodium EDTA for FDA GRAS evaluation, the ingredient is regarded as safe for use in foods to increase iron bioavailability in human diets (Heimbach *et al.* 2000).

The results of toxicity testing and information found in published literature indicate there is no risk to human health or the environment from ferric sodium EDTA. Dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern.

ii. *Drinking water*. Similarly, exposure to humans from residues of ferric sodium EDTA in consumed drinking water would be unlikely. Potential exposure to surface water would be negligible and exposure to drinking water (well or ground water) would be impossible to measure. Ferric sodium EDTA is intended for application to soil surfaces in agricultural crops, turf and ornamentals, and home gardens to control slugs and snails. The product is not applied directly to water.

The results of toxicity testing and information found in published literature indicate there is no risk to human health or the environment from ferric sodium EDTA. Drinking water

exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern.

2. *Non-dietary exposure*. The potential for non-dietary exposure to the general population, including infants and children, is limited. Ferric sodium EDTA is intended for application to soil surfaces in agricultural crops, turf and ornamentals, and home gardens to control slugs and snails.

The results of toxicity testing and information found in published literature indicate there is no risk to human health or the environment from ferric sodium EDTA. Non-dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern.

#### E. Cumulative Exposure

It is not expected that, when used as proposed, ferric sodium EDTA would result in residues that are of toxicological concern. Ferric sodium EDTA is a commodity ingredient used in the photographic industry as a bleaching agent, used in agriculture as a micronutrient, and used in the chemical industry as a catalyst. Ferric sodium EDTA is also currently being evaluated as a way of fortifying foods to prevent anemia and iron deficiencies in developing countries. The components of ferric sodium EDTA are approved as direct food additives by FDA. Acute toxicity studies have shown that ferric sodium EDTA is not toxic or irritating to mammals. Further, a published safety assessment on ferric sodium EDTA for FDA GRAS evaluation, the ingredient is regarded as safe for use in foods to increase iron bioavailability in human diets (Heimbach *et al.* 2000).

Ferric sodium EDTA is intended for application to soil surfaces in agricultural crops, turf and ornamentals, and home gardens to control slugs and snails. The results of toxicity testing and information found in published literature indicate there is no risk to human health or the environment from ferric sodium EDTA.

#### F. Safety Determination

1. *U.S. population*. Ferric sodium EDTA is a commodity ingredient used in the photographic industry as a bleaching agent, used in agriculture as a micronutrient, and used in the chemical industry as a catalyst. Ferric sodium EDTA is also currently being evaluated as a way of fortifying foods to prevent anemia and iron deficiencies in developing countries. The components of ferric sodium EDTA are approved as direct food additives by FDA. Acute toxicity studies have shown that ferric sodium EDTA is not toxic or irritating

to mammals. Further, a published safety assessment on ferric sodium EDTA for FDA GRAS evaluation, the ingredient is regarded as safe for use in foods to increase iron bioavailability in human diets (Heimbach *et al.* 2000).

When used as proposed, ferric sodium EDTA would not result in residues that are of toxicological concern. Ferric sodium EDTA is intended for application to soil surfaces in agricultural crops, turf and ornamentals, and home gardens to control slugs and snails. The results of toxicity testing and information found in published literature indicate there is no risk to human health or the environment from ferric sodium EDTA. There is a reasonable certainty of no harm to the general U.S. population from exposure to this active ingredient.

2. *Infants and children*. As mentioned above, it is not expected that, when used as proposed, ferric sodium EDTA would result in residues that are of toxicological concern. There is a reasonable certainty of no harm for infants and children from exposure to ferric sodium EDTA from the proposed uses.

#### G. Effects on the Immune and Endocrine Systems

To date there is no evidence to suggest that ferric sodium EDTA functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

#### H. Existing Tolerances

There is no EPA tolerance for ferric sodium EDTA.

#### I. International Tolerances

A Codex Alimentarium Commission Maximum Residue Level (MRL) is not required for ferric sodium EDTA.

[FR Doc. 05-11165 Filed 6-7-05; 8:45 am]

BILLING CODE 6560-50-S

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-05-81-E (Auction No. 81); DA 05-1337]

### Auction of Low Power Television Construction Permits Scheduled for September 14, 2005, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 81

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the procedures and minimum opening bids

for the upcoming auction of construction permits for certain low power television (LPTV), television translator, and Class A television broadcast stations. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

**DATES:** Auction No. 81 is scheduled to begin on September 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Auctions and Spectrum Access Division, Wireless Telecommunications Bureau: For legal questions: Lynne Milne at (202) 418-0660. For general auction questions: Jeff Crooks at (202) 418-0660 or Linda Sanderson at (717) 338-2888: Media Contact: Lauren Patrich at (202) 418-7944. Video Division, Media Bureau: For service rule questions: Shaun Maher or Hossein Hashemzadeh at (202) 418-1600. 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).

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 81 Procedures Public Notice*, released on May 20, 2005. The complete text of the *Auction No. 81 Procedures Public Notice*, including attachments, as well as related Commission documents, are available for public inspection and copying from 8 a.m. to 4:30 p.m. eastern time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Auction No. 81 Procedures Public Notice* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. The *Auction No. 81 Procedures Public Notice* and related documents are also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/81/>.

## I. General Information

### A. Introduction

1. The *Auction No. 81 Procedures Public Notice* announces the procedures and minimum opening bid amounts for the upcoming auction of construction permits in Auction No. 81, scheduled to

begin on September 14, 2005. On February 28, 2005, in accordance with 47 U.S.C. 309(j)(4), the Media Bureau (MB) and Wireless Telecommunications Bureau (WTB) (collectively the Bureaus) released a public notice seeking comment on reserve prices or minimum opening bid amounts and the procedures to be used in Auction No. 81. The Bureaus received comments and reply comments from the National Translator Association in response to the *Auction No. 81 Comment Public Notice*, 70 FR 11975, March 10, 2005.

#### i. Background

2. On June 23, 2000, the Bureaus announced a limited auction filing window for certain LPTV, television translator, and Class A television broadcast stations. *Auction No. 81 Filing Window Public Notice*, 65 FR 39619, June 27, 2000. On February 28, 2005, the Bureaus by public notice required each Auction No. 81 applicant to submit its FCC registration number (FRN). *Auction No. 81 FRN Public Notice*, 70 FR 11974, March 10, 2005. On April 13, 2005, the Bureaus by public notice revised the auction inventory. *Auction No. 81 Revised Inventory Public Notice*, 70 FR 22042, April 28, 2005.

#### ii. Construction Permits To Be Auctioned

3. Auction No. 81 will offer 113 construction permits for specified LPTV, television translator and Class A television broadcast stations. These construction permits are the subject of pending mutually-exclusive (MX) short-form applications (FCC Forms 175) filed on or before August 4, 2000. Participation in this auction will be limited to those applicants and engineering proposals identified in Attachment A of the *Auction No. 81 Procedures Public Notice*. Qualifying applicants will be eligible to bid only on those construction permits for which the applicant's engineering proposal is specified in the particular mutually exclusive group (MX group) as set forth in Attachment A of the *Auction No. 81 Procedures Public Notice*. All engineering proposals within an MX group are directly mutually exclusive with one another, and therefore a single construction permit will be auctioned for each MX group identified in Attachment A of the *Auction No. 81 Procedures Public Notice*.

4. The National Translator Association (NTA) submitted comments and reply comments concerning the treatment of daisy chain MX groups. For LPTV, television translator and Class A television broadcast stations, a daisy chain occurs when two or more non-

table, site-based applications propose stations with projected contours that do not directly overlap, but are linked together into a chain by the overlapping projected contours of other proposed stations. A daisy chain may contain numerous proposals in a long link proposing facilities in communities of differing population sizes. The NTA argues that, when the Commission addresses the issue of daisy chain applications, it should develop auction procedures whereby the daisy chain will be offered as an MX group, and at the conclusion of the auction those applications which are then not mutually exclusive with the auction winner would be processed for further grant or auction, as appropriate.

5. MX groups with a daisy chain of mutual exclusivity are not proceeding to auction at this time. A separate auction of construction permits for daisy chain MX groups will be announced at a later date. The issues raised by the NTA with respect to daisy chain applications would be raised more appropriately when the auction for the daisy chain applications is announced. As the NTA acknowledges, none of the MX groups in Auction No. 81 contain daisy chains and, therefore, we will not resolve those issues here.

6. As stated in the *Broadcast First Report and Order*, 63 FR 48615, September 11, 1998, all pending mutually exclusive applications for broadcast services must be resolved through a system of competitive bidding. When two or more short-form applications are accepted for filing within an MX group, mutual exclusivity exists for auction purposes. Once mutual exclusivity exists for auction purposes, even if only one applicant within an MX group submits an upfront payment, that applicant is required to submit a bid in order to obtain the construction permit.

7. The Bureaus note that some MX groups contain multiple engineering proposals submitted by a single applicant. In such cases, one bidder with multiple engineering proposals in an MX group may only bid for a single construction permit in the MX group. If that bidder is the winning bidder for that MX group at the conclusion of the auction, the bidder would file a long-form application for no more than one of its engineering proposals. Note: In no instance will more than a single construction permit be licensed to the winning bidder for a particular MX group, even if that bidder had submitted more than one engineering proposal that is included in that MX group.

## B. Rules and Disclaimers

### i. Relevant Authority

8. Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including recent amendments and clarifications. Broadcasters should also familiarize themselves with the Commission's rules relating to broadcast auctions contained in 47 CFR 73.5000–73.5009. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, terms) contained in the *Auction No. 81 Procedures Public Notice*; the *Auction No. 81 Inventory Public Notice*; the *Auction No. 81 Comment Public Notice*; the *Auction No. 81 Filing Window Public Notice*; the *Broadcast First Report and Order*; the *Broadcast First Reconsideration Order*, 64 FR 24523, May 7, 1999; the *New Entrant Bidding Credit Reconsideration Order*, 64 FR 44856, August 18, 1999; and the *Noncommercial Educational Second Report and Order*, 68 FR 26220, May 15, 2003.

9. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents related to auctions, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>.

### ii. Prohibition of Collusion

10. Auction No. 81 applicants are reminded that the anti-collusion rules found at 47 CFR 1.2105(c) and 73.5002(d) are in effect. These rules prohibit applicants competing for construction permits in either the same geographic license area or the same MX group from communicating with each other during the auction about bids, bidding strategies, or settlements unless they have identified each other on their short-form applications (FCC Forms 175) filed in 2000 as parties with whom they have entered into agreements under 47 CFR 1.2105(a)(2)(viii). Thus, applicants competing for construction permits in either the same geographic license area or the same MX group must affirmatively avoid all communications with each other that affect, or in their reasonable assessment have the

potential to affect, bids or bidding strategy. In some instances, this prohibition extends to communications regarding the post-auction market structure. For Auction No. 81, this prohibition became effective at the short-form application filing deadline on August 4, 2000, and will end on the post-auction down payment deadline, which will be announced in a future public notice. This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid. For purposes of this prohibition, 47 CFR 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity. Under 47 CFR 1.2105(c), if parties had agreed in principle on all material terms of an agreement, those parties must have been identified on the short-form application filed in 2000, even if the agreement had not been reduced to writing. If parties had not agreed in principle on all material terms by the 2000 filing deadline, an applicant should not have included the names of those parties on its application, and must not have continued negotiations, discussions or communications with other applicants for construction permits in the same geographic area or the same MX group.

11. Applicants competing for construction permits in either the same geographic license area or the same MX group are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the applicants the authorized bidder is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or engineering firm or consulting firm), a violation similarly could occur.

12. By electronically submitting its short-form application (FCC Form 175), each Auction No. 81 applicant certified its compliance with 47 CFR 1.2105(c) and 73.5002. However, the Bureaus caution that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor

will it preclude the initiation of an investigation when warranted.

13. In addition, 47 CFR 1.65 requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, 47 CFR 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Applicants are therefore required by 47 CFR 1.65 to make such notification to the Commission immediately upon discovery. In addition, 47 CFR 1.2105(c)(6) requires that any applicant that makes or receives a communication prohibited by 47 CFR 1.2105(c) must report such communication to the Commission in writing immediately, and in no case later than five business days after the communication occurs.

14. A summary listing of documents issued by the Commission and the Bureaus addressing the application of the anti-collusion rule may be found in Attachment E of the *Auction No. 81 Procedures Public Notice* and these documents are available on the Commission's auction anti-collusion web page at <http://wireless.fcc.gov/auctions/anticollusion>.

### iii. Due Diligence

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

16. Potential bidders are strongly encouraged to conduct their own research prior to the beginning of bidding in Auction No. 81 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in bidding in the auction. Participants in Auction No. 81 are strongly encouraged

to continue such research during the auction. In addition, potential bidders should perform technical analyses sufficient to assure themselves that, should they prevail in competitive bidding for a specific construction permit, they will be able to build and operate facilities that will fully comply with the Commission's technical and legal requirements.

17. Potential bidders should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission may relate to particular applicants or incumbent permittees or incumbent licensees or the engineering proposals included in Auction No. 81. In addition, pending and future judicial proceedings may relate to particular applicants, incumbent permittees, or incumbent licensees, or the engineering proposals included in Auction No. 81. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on construction permits available in this auction.

18. Potential bidders should also note that LPTV and television translator stations are authorized with secondary frequency use status. These stations may not cause interference to, and must accept interference from, full service television stations, certain land mobile radio operations, and other primary services. See 47 CFR 74.703, 74.709 and 90.303.

19. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the construction permits available in Auction No. 81. Potential applicants are strongly encouraged to physically inspect any sites located in, or near, the service area for which they plan to bid, and also to familiarize themselves with the environmental assessment obligations described in the *Auction No. 81 Procedures Public Notice*.

20. Potential bidders may research the licensing database for the Media Bureau on the Internet in order to determine which channels are already licensed to incumbent licensees or previously authorized to construction permittees. Licensing records for the Media Bureau are contained in the Media Bureau's Consolidated Data Base System (CDBS) and may be researched on the Internet at <http://www.fcc.gov/mb/>. Potential

bidders may query the database online and download a copy of their search results if desired. Detailed instructions on using Search for Station Information, Search for Ownership Report Information and Search for Application Information and downloading query results are available online by selecting the CDBS Public Access (main) button at the bottom of the Electronic Filing and Public Access list section. The database searches return either station or application data. The application search provides an application link that displays the complete electronically filed application in application format. An AL/TC search under the application search link permits searching for Assignment of License/Transfer of Control groups using the AL/TC group lead application. For further details, click on the Help file. Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418-2662, or via e-mail at [mbinfo@fcc.gov](mailto:mbinfo@fcc.gov).

21. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by a bidder, bidders may obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database.

#### iv. Bidder Alerts

22. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 81 to deceive and defraud unsuspecting investors. Information about deceptive telemarketing investment schemes is available from the Federal Trade Commission (FTC) at (202) 326-2222 and from the Securities and Exchange Commission (SEC) at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals regarding Auction No. 81 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

v. National Environmental Policy Act Requirements

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

#### C. Auction Specifics

##### i. Auction Date

24. The competitive bidding in this auction will begin on Wednesday, September 14, 2005, as announced in the *Auction No. 81 Comment Public Notice*. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

##### ii. Auction Title

25. Auction No. 81—LPTV.

##### iii. Bidding Methodology

26. The bidding methodology for Auction No. 81 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC's Integrated Spectrum Auction system (ISAS or FCC Auction System), and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically via the Internet or by telephone.

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

Auction Seminar: June 24, 2005.

FCC Form 175 Remedial Filing Window Opens: June 24, 2005; 12 p.m. ET.

FCC Form 175 Remedial Filing Window Deadline: July 8, 2005; 6 p.m. ET.

Upfront Payments (via wire transfer): August 12, 2005; 6 p.m. ET.

Mock Auction: September 12, 2005.

Auction Begins: September 14, 2005.

#### v. Requirements for Participation

27. Those wishing to participate in the auction must: (A) Be listed on Attachment A of the Auction No. 81 Procedures Public Notice; (B) Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) before 6 p.m. ET, August 12, 2005; and (C) Comply with all provisions outlined in the *Auction No. 81 Procedures Public Notice* and applicable Commission rules.

#### vi. General Contact Information

##### GENERAL AUCTION INFORMATION General Auction Questions Seminar Registration

FCC Auctions Hotline (888) 225-5322, option two; or (717) 338-2888  
Hours of service: 8 a.m.–5:30 p.m. ET, Monday through Friday

##### AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations  
Auctions and Spectrum Access  
Division (202) 418-0660

##### LICENSING INFORMATION Rules,

Policies, Regulations Licensing  
Issues, Engineering Issues, Due  
Diligence, Incumbency Issues  
Video Division (202) 418-1600

##### TECHNICAL SUPPORT Electronic Filing FCC Auction System

FCC Auctions Technical Support  
Hotline (877) 480-3201, option  
nine; or (202) 414-1250 (202) 414-  
1255 (TTY) Hours of service: 8  
a.m.–6 p.m. ET, Monday through  
Friday

##### PAYMENT INFORMATION Wire Transfers Refunds

FCC Auctions Accounting Branch  
(202) 418-0578 (202) 418-2843  
(Fax)

##### TELEPHONIC BIDDING

Will be furnished only to qualified  
bidders

##### FCC COPY CONTRACTOR Additional

Copies of Commission Documents  
Best Copy and Printing, Inc 445 12th  
Street, SW., Room CY-B402  
Washington, DC 20554 (800) 378-  
3160 <http://www.bcpiweb.com>

##### PRESS INFORMATION

Lauren Patrich (202) 418-7944

##### FCC FORMS

(800) 418-3676 (outside Washington,

DC) (202) 418-3676 (in the  
Washington area) [http://  
www.fcc.gov/formpage.html](http://www.fcc.gov/formpage.html)

ACCESSIBLE FORMATS Braille, large  
print, electronic files, or audio  
format for people with disabilities  
Consumer and Governmental Affairs  
Bureau (202) 418-0530 or (202)  
418-0432 (TTY) [fcc504@fcc.gov](mailto:fcc504@fcc.gov)

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

##### A. Transition of Applicant's FCC Form 175 to Integrated Spectrum Auction System—Remedial Filing Window Closes July 8, 2005

28. Applicants seeking construction permits available in Auction No. 81 were required to file a short-form application, FCC Form 175, by the filing deadline on August 4, 2000. At that time, the Commission used the FCC's Automated Auction System (AAS). However, the Commission will conduct Auction No. 81 using the FCC's new Integrated Spectrum Auction System (ISAS). Each Auction No. 81 applicant will need to provide some additional information in its FCC Form 175 to comply with current Commission requirements. Each applicant must review its FCC Form 175 in ISAS to assure that all relevant information is provided. It is possible that an applicant may need to revise information previously submitted to keep its FCC Form 175 accurate and complete as required by 47 CFR 1.65 or other rule requirements. To accommodate these needs, the Commission will open a remedial filing window to allow each applicant in Auction No. 81 to provide required new information in its FCC Form 175 and to review, update and confirm information previously submitted. Applicants listed in Attachment A of the *Auction No. 81 Procedures Public Notice* must use ISAS to review the information previously submitted and provide required new and corrected information from noon ET on Friday, June 24, 2005, until 6 p.m. ET on Friday, July 8, 2005.

29. To insure that the FCC Form 175 is accurate and complete, each applicant must review carefully all of the information provided in the *Auction No. 81 Procedures Public Notice*, including the section regarding declarations as to former defaults and delinquencies. In addition, applicants will find a description of the new information which must be submitted during this remedial window, as well as the review of information previously submitted, in Attachment C of the *Auction No. 81 Procedures Public Notice*. In this same attachment, the Bureaus also provide

instructions on how to submit new information or revise information previously submitted.

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

30. Following the deadline for filing short-form applications (FCC Forms 175) on August 4, 2000, applicants in Auction No. 81 are permitted to make only minor changes to their applications. As prescribed by 47 CFR 1.2105, applicants are not permitted to make major modifications to their applications (e.g., change their construction permit selections, change control of the applicant, or seek additional bidding credit eligibility). Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of addresses and phone numbers of the applicants and their contact persons.

31. In addition, applicants should submit a letter briefly summarizing the changes by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: [auction81@fcc.gov](mailto:auction81@fcc.gov). The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 81 and the name of the applicant. A separate copy of the letter should be sent by facsimile to the attention of Kathryn Garland at (717) 338-2850. The Bureaus request that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Questions about short-form application (FCC Form 175) amendments should be directed to Lynne Milne of the Auctions and Spectrum Access Division at (202) 418-0660.

##### C. Maintaining the Accuracy of FCC Form 175 Information

32. Each applicant is required by 47 CFR 1.65 to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. If an amendment reporting substantial changes is a major amendment as defined by 47 CFR 1.2105, the major amendment will not be accepted and may, in some instances, result in the dismissal of the FCC Form 175 application.

33. Applicants must report these modifications to their FCC Form 175 by electronic mail and submit a letter briefly summarizing the changes to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access

Division, at the following address: [auction81@fcc.gov](mailto:auction81@fcc.gov). The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 81 and the name of the applicant. The Bureaus request that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. A separate copy of the letter should be sent by facsimile to the attention of Kathryn Garland at (717) 338-2850. Questions about other changes should be directed to Lynne Milne of the Auctions and Spectrum Access Division at (202) 418-0660.

34. In addition, an applicant must make these changes to its short-form application (FCC Form 175) on-line during the remedial filing window or during the time period that will be specified in the public notice explaining the status of the applications in Auction No. 81. During the remedial filing window or during the time period specified in a subsequent public notice explaining the status of the applications in Auction No. 81, applicants must click on the SUBMIT button in the FCC Auction System for the changes to be submitted and considered by the Commission. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with a unique file number.

#### *D. Requirements for Logging on to the FCC Auction System*

35. Although applicants submitted their original FCC Form 175 applications by using a Taxpayer Identification Number (TIN), any review of and updates to these applications will require the use of an FCC Registration Number (FRN). Use of an FRN is mandatory for all applicants for Auction No. 81 so that each applicant may log on to the FCC Auction System to review its FCC Form 175 and continue to participate in the auction process. A remedial filing window for review of FCC Form 175 applications and the submission of required information will be open from noon ET on Friday, June 24, 2005, until 6 p.m. ET on Friday, July 8, 2005. In Attachment C of the *Auction No. 81 Procedures Public Notice*, the Bureaus provide specific instructions about logging on to the FCC Auction System.

#### *E. Provisions Regarding Former Defaulters*

36. Pursuant to current Commission rules, including 47 CFR 1.2105(a)(2), each applicant in Auction No. 81 now must submit a statement, under penalty of perjury, as part of its short-form application (FCC Form 175), regarding

whether or not the applicant, its affiliates, its controlling interests, or any affiliates of its controlling interests, as defined by 47 CFR 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. Each applicant in Auction No. 81 must make this statement as provided on the current FCC Form 175 and must attach to its FCC Form 175 information identifying the person making the statement.

37. The new format of FCC Form 175 in ISAS provides a screen where the applicant must select one of two form statements describing the status of the applicant, its affiliates, its controlling interests, or any affiliates of its controlling interests regarding former defaults or delinquencies. In addition, because the statement must be made under penalty of perjury, each applicant in Auction No. 81 must submit an attachment identifying the party responsible for making the statement on behalf of the applicant. Applicants in Auction No. 81 are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

38. Former defaulters—*i.e.*, applicants, including their attributable interest holders, that, as of the day the statement is submitted to the Commission, in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 81, provided that they are otherwise qualified. However, former defaulters are required by 47 CFR 1.2106(a) to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

39. Applicants are reminded that current defaulters—*i.e.*, applicants, including their attributable interest holders, that are in default on any payment for Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency—are not eligible to bid in Auction No. 81.

40. Applicants are encouraged to review the Wireless Telecommunications Bureau's previous guidance on default and delinquency disclosure requirements in the context of our short-form application process. Applicants are reminded that the Commission's Red Light Display

System, which provides information regarding debts owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105.

41. The applicants listed in Attachment A of the *Auction No. 81 Procedures Public Notice* must file the additional information identified above from noon ET on Friday, June 24, 2005, until 6 p.m. ET on Friday, July 8, 2005. Further details about this particular submission are provided in Attachment C of the *Auction No. 81 Procedures Public Notice*.

#### *F. Electronic Review of Short-Form Applications (FCC Forms 175)*

42. During the remedial window, an applicant may review and update its own completed FCC Form 175 application in the FCC Auction System. There is no fee for accessing this system. Attachment C of the *Auction No. 81 Procedures Public Notice* provides further information about access to the FCC's ISAS.

43. Applicants will also be able to view other applicants' completed FCC Form 175 applications after the Commission has issued a subsequent public notice concerning the status of the Auction No. 81 applications. Instructions for electronic review of FCC Form 175 applications will be discussed in the public notice concerning the status of the applications.

#### *G. Installment Payments*

44. In 1997, the Commission suspended the use of auction installment payments. Installment payment plans will not be available in Auction No. 81.

### **III. Pre-Auction Procedures**

#### *A. Application Processing and Minor Corrections*

45. The FCC will process all timely-submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) Those applications accepted for filing; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for resubmitting such corrected applications.

46. Applications for construction permits for noncommercial educational broadcast stations (NCE stations) are exempted from competitive bidding by 47 U.S.C. 309(j)(2)(C). For purposes of this auction, this exemption applies to a proposal for a new LPTV, television

translator or Class A television broadcast station that is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes. In the *NCE Second Report and Order*, the Commission held that LPTV and television translator facilities qualify as NCE stations, and are exempt from auction, only if they are owned and operated by municipalities and transmit only NCE programs.

47. The Commission also stated that proposals for NCE stations may be submitted for non-reserved spectrum in a filing window, subject to being returned as unacceptable for filing if there is any mutually exclusive application for a commercial station. Accordingly, with a specified deadline of May 13, 2005, the Bureaus provided applicants in Auction No. 81 with an opportunity to designate their status as an NCE station applicant. If any Auction No. 81 applicants made such a claim and one or more of the NCE applicant's engineering proposals is determined to be mutually exclusive with one or more engineering proposals filed by an applicant for a commercial station, the NCE station engineering proposal(s) will be returned as unacceptable for filing.

#### B. Auction Seminar—June 24, 2005

48. On Friday, June 24, 2005, the FCC will sponsor a seminar for parties interested in participating in Auction No. 81 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, revision of FCC Form 175 during the remedial filing window, auction conduct, the FCC Auction System, auction rules, and the LPTV, television translator and Class A television broadcast service rules. The seminar will also provide an opportunity for prospective bidders to ask questions of Commission staff.

49. To register, complete the registration form provided as Attachment B of the *Auction No. 81 Procedures Public Notice* and submit it no later than Tuesday, June 21, 2005. Registrations are accepted on a first-come, first-served basis. The seminar is free of charge.

50. For individuals who are unable to attend, an Audio/Video recording of this seminar will be available via webcast from the FCC's Auction 81 Web page at <http://wireless.fcc.gov/auctions/81/>, if you select Auction Seminar.

#### C. Upfront Payments—Due August 12, 2005

51. In order to be eligible to bid in the auction, applicants must submit an

upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). All upfront payments must be received at Mellon Bank by 6 p.m. ET on August 12, 2005.

#### i. Making Auction Payments by Wire Transfer

52. Wire transfer payments must be received by 6 p.m. ET on August 12, 2005. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. The specific information needed to make the required wire transfer payments is provided in the *Auction No. 81 Procedures Public Notice*.

53. Applicants must send by facsimile a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the facsimile, write Wire Transfer—Auction Payment for Auction Event No. 81. In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account. All payments must be made in U.S. dollars. All payments must be made by wire transfer. Upfront payments for Auction No. 81 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 deadline on August 12, 2005 will result in dismissal of the application and disqualification from participation in the auction.

#### ii. FCC Form 159

54. 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 of the *Auction No. 81 Procedures Public Notice*. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175 during the remedial period. 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.

#### iii. Amount of Upfront Payment

55. In the *Part 1 Competitive Bidding Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Wireless Telecommunications Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Fifth Report and Order*, 65 FR 52323, August 29, 2000, the Commission ordered that former defaulters, *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies, be required to pay upfront payments 50 percent greater than non-former defaulters. For purposes of this calculation, the applicant includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by 47 CFR 1.2110.

56. In the *Auction No. 81 Comment Public Notice*, the Bureaus 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. In order to bid on a construction permit, otherwise qualified bidders that are designated in Attachment A of the *Auction No. 81 Procedures Public Notice* for that construction permit 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 designated for that applicant in Attachment A of the *Auction No. 81 Procedures Public Notice*, 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 designated for that applicant in Attachment A of the *Auction No. 81 Procedures Public Notice*, 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. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round.

57. In the *Auction No. 81 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. No comments were received on this issue; therefore, the Bureaus adopted its proposal. The specific upfront payments and bidding units for each construction permit are

specified in Attachment A of the *Auction No. 81 Procedures Public Notice*.

58. In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to be active on (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. 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, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.

EXAMPLE: UPFRONT PAYMENTS AND BIDDING FLEXIBILITY

Market No.	Channel	Location	Bidding units	Upfront payment
MX001 .....	11	Port Arthur, TX .....	1,000	\$1,000
MX007 .....	43	Aberdeen, SD .....	1,000	1,000

59. In this example, if a bidder wishes to bid on both construction permits in a round, it must be identified in Attachment A of the *Auction No. 81 Procedures Public Notice* for both and have purchased at least 2,000 bidding units (1,000 + 1,000). If a bidder only wishes to bid on one, but not both, purchasing bidding units would meet the requirements of either construction permit. The bidder would be able to bid on either construction permit, but not both at the same time.

60. Former defaulters, as required by 47 CFR 1.2106(a), should calculate their upfront payment by multiplying the number of bidding units on which they wish to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit. If a former defaulter fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the construction permits designated for that applicant in Attachment A of the *Auction No. 81 Procedures Public Notice*, the applicant will not be eligible to participate in the auction.

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

61. The Commission will use wire transfers for all Auction No. 81 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants can provide the information electronically during the remedial period designated in the *Auction No. 81 Procedures Public Notice*. Wire Transfer Instructions can also be sent by facsimile manually 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. The information necessary for a refund is specified in the *Auction No. 81 Procedures Public Notice*. For additional information, please call Gail Glasser at (202) 418-0578.

D. Auction Registration

62. Approximately ten (10) days before the auction, the Commission 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.

63. 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 which will be required to place bids (or access the FCC Auction System) and the telephonic bidding phone number.

64. 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, September 8, 2005, should telephone (717) 338-2888. 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.

65. Qualified bidders should note that lost SecurID cards can be replaced only

by appearing in person at the FCC headquarters, located at 445 12th St., SW., Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a government-issued photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

E. Remote Electronic Bidding

66. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid telephonically and electronically through the FCC Auction System, but each applicant should indicate its 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 phone 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.

67. 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. 81. The SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. The Bureaus will provide pre-addressed envelopes that bidders may use to

return the cards once the auction is over.

*F. Mock Auction—September 12, 2005*

68. All qualified bidders will be eligible to participate in a mock auction on Monday, September 12, 2005. The mock auction will enable bidders to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by a future public notice.

**IV. Auction Event**

69. The first round of bidding for Auction No. 81 will begin on Wednesday, September 14, 2005. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately ten (10) days before the start of the auction.

*A. Auction Structure*

i. Simultaneous Multiple Round Auction

70. In the *Auction No. 81 Comment Public Notice*, the Bureaus proposed to award all construction permits in Auction No. 81 in a simultaneous multiple round auction. In a simultaneous multiple round auction, all construction permits are available during the entire auction, and bids are accepted on any construction permit until bidding in the auction concludes. The Bureaus received no comment on this proposal. The Bureaus concluded that it is operationally feasible and appropriate to auction the LPTV, television translator and Class A television broadcast stations through a simultaneous multiple round auction. The Bureaus adopted the proposal. Unless otherwise announced, bids will be accepted on all construction permits in each round of the auction.

ii. Eligibility and Activity Rules

71. In the *Auction No. 81 Comment Public Notice*, the Bureaus 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. The Bureaus received no comments on this issue.

72. For Auction No. 81 the Bureaus adopted this proposal. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, which is the maximum number of bidding units on which a bidder may place bids. Note again that each construction permit is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 81*

*Public Notice* 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 attributed to specific construction permits. Rather, a bidder may place bids on any combination of construction permits 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 on which it may wish to bid and 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.

73. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders in Auction No. 81 are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

74. 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 and does not withdraw the provisionally winning bid in the current round, or if it submits a bid in the current round. 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 activity and bidding unit eligibility procedures have proven successful in maintaining the pace of previous auctions the Bureaus adopted them for Auction No. 81.

iii. Auction Stages

75. In the *Auction No. 81 Comment Public Notice*, the Bureaus proposed to conduct the auction in two stages and employ an activity rule. The Bureaus 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 80 percent of its current bidding eligibility. Finally, the Bureaus 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. The Bureaus received no comments on this proposal.

76. Because the proposed procedures for activity levels, bidding unit eligibility and auction stages have proven successful in maintaining proper pace in previous auctions, the Bureaus adopted them for Auction No. 81. The activity levels for each stage of the auction are described below. The Bureaus reserve the discretion to further alter the activity percentages before and/or during bidding in the auction.

77. *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 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility for 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 five-fourths ( $\frac{5}{4}$ ).

78. *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 for 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 provisionally winning bids and bids during the current round) by twenty-nineteenths ( $\frac{20}{19}$ ).

79. *Caution*: Since activity requirements increase in Stage Two, bidders must carefully check their activity during the bidding period of 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 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 or by accessing the Bidder Summaries on the public results page.

#### iv. Stage Transitions

80. In the *Auction No. 81 Comment Public Notice*, the Bureaus 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 below for three consecutive rounds of bidding in Stage One. The Bureaus further proposed that the Bureaus would retain the discretion to change stages unilaterally by announcement during the auction. The Bureaus received no comments on this issue.

81. The Bureaus adopted the proposal. Thus, the auction will start in Stage One and will generally advance to the next stage (*i.e.*, from Stage One 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). In addition, the Bureaus will retain the discretion to regulate the pace of the auction by announcement. As proposed in the *Auction No. 81 Comment Public Notice*, 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, the number of new bids, and the percentage increase in revenue. When monitoring activity for determining when to change stages, the Bureaus may consider the percentage of bidding units of the construction permits receiving new provisionally winning bids, excluding any FCC-held construction permits. The Bureaus believe that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 81.

#### v. Activity Rule Waivers and Reducing Eligibility

82. Based upon experience in previous auctions, the Bureaus adopt their proposal that each bidder be provided three activity rule waivers. 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 (known as a proactive waiver) or applied automatically by the FCC Auction System (known as an 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. The Bureaus are satisfied that the use of three waivers over the course of the auction provides a sufficient number of waivers and flexibility to the bidders, while safeguarding the integrity of the auction.

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

84. 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. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

85. 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 rule waiver (using the apply waiver function in the FCC Auction System) during a bidding round in which no bids or withdrawals 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 withdrawals will not keep the auction open. The submission of a proactive waiver cannot occur after a bidder has submitted a bid in a round and will preclude a bidder from placing

any bids later 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.

#### vi. Auction Stopping Rules

86. For Auction No. 81, the Bureaus proposed to employ a simultaneous stopping rule approach. The Bureaus also sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all construction permits simultaneously after the first round in which no bidder applies a waiver, places a withdrawal, 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.

87. The Bureaus further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous provisionally winning bids are withdrawn 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.

88. In addition, the Bureaus 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, it will accept bids in the specified final round(s) and the auction will close.

89. The Bureaus proposed to exercise this special stopping rule 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. Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, 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.

90. The Bureaus received no comments concerning the auction stopping rules; therefore the Bureaus adopted the above proposals. Auction No. 81 will begin under the simultaneous stopping rule approach,

and the Bureaus will retain the discretion to invoke the other versions of the stopping rule. These stopping rules are most appropriate for Auction No. 81, because experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

vii. Auction Delay, Suspension, or Cancellation

91. Because our approach to notification of delay during an auction has proven effective in resolving exigent circumstances in previous auctions, the Bureaus adopted their proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair or competitive conduct of 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. The Bureaus emphasized 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*

i. Round Structure

92. 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.

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

ii. Reserve Price or Minimum Opening Bid

94. Pursuant to the Congressional mandate of 47 U.S.C. 309(j)(4)(F) and the previous delegation of authority to the Bureaus by the Commission, the Bureaus proposed in the *Auction No. 81 Comment Public Notice* to establish minimum opening bids for Auction No. 81, reasoning that a minimum opening bid, successfully used in other broadcast auctions, is a valuable tool, effectively regulating the pace of the auction. Specifically, a minimum opening bid was proposed for each MX group listed in Attachment A of the *Auctions No. 81 Procedures Public Notice*. The minimum opening bid amounts were determined by taking into account various factors relating to the efficiency of the auction and the potential value of the spectrum. 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.

95. In the alternative, the Bureaus sought comment on whether, consistent with 47 U.S.C. 309(j), the public interest would be served by having no minimum opening bid or reserve price.

96. The Bureaus adopted its proposed minimum opening bids for Auction No. 81. The minimum opening bid amounts adopted for Auction No. 81 are reducible at the discretion of the Bureaus. The Bureaus 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.

97. The specific minimum opening bid amounts for each construction permit available in Auction No. 81 are specified in Attachment A of the *Auction No. 81 Procedures Public Notice*.

iii. Minimum Acceptable Bid Amounts and Bid Increment Amounts

98. In the *Auction No. 81 Comment Public Notice*, the Bureau proposed to use a minimum acceptable bid increment of 10 percent. This means that the minimum acceptable bid amount for a construction permit will be approximately 10 percent greater than the provisionally winning bid amount for the construction permit. The

minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage—*i.e.*, (provisionally winning bid amount) \* (1.10). The Bureaus will round the result using our standard rounding procedures which are described in the *Auction No. 81 Procedures Public Notice*. The Bureaus further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if it determines that circumstances so dictate. The Bureaus received no comment on this issue. The Bureaus adopted the proposal and will begin the auction with a minimum acceptable bid percentage of 10 percent.

99. In each round, if the bidder has sufficient eligibility, each eligible bidder will be able to place a bid on a particular construction permit for which it is designated in Attachment A of the *Auction No. 81 Procedures Public Notice* in any of nine different amounts. The FCC Auction System will list the nine acceptable bid amounts for each construction permit. 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.

100. The nine acceptable bid amounts for each construction permit consist of the minimum acceptable bid amount and eight other bid amounts based on the bid increment percentage. The first additional acceptable bid amount, above the minimum acceptable bid amount, equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded—*e.g.*, if the bid increment percentage is 10 percent, then the next bid amount will equal (minimum acceptable bid amount) \* 1.10, rounded, the second additional acceptable bid amount equals the minimum acceptable bid 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. The Bureaus will begin the auction with a bid increment percentage of 10 percent. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

101. In the case of a construction permit for which the provisionally winning bid amount has been withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid received for the

construction permit, which may be less than, or equal to, in the case of tied bids, the amount of the withdrawn bid. The additional bid amounts above the minimum acceptable bid amount are calculated using the bid increment percentage as described in the previous paragraph.

102. The Bureaus retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if it determines that circumstances so dictate. The Bureaus will do so by announcement in the FCC Auction System. The Bureaus may also use their discretion to adjust these amounts without prior notice if circumstances warrant.

#### iv. Provisionally Winning Bids

103. At the end of each bidding round, a provisionally winning bid amount will be determined based on the highest bid amount received for each construction permit. A high bid from a previous round is referred to as a provisionally winning bid. 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. Bidders are reminded that the bidding units of provisionally winning bids are counted as activity for purposes of the activity rule.

104. In the *Auction No. 81 Comment Public Notice*, the Bureaus proposed to use a random number generator to select a 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). No comments were received on this proposal. Therefore, the Bureaus adopted their proposal. A Sybase® SQL pseudo-random number generator based on the L'Ecuyer algorithms will be used to assign a random number to each bid. The tied bid having the highest random number will become the provisionally winning bid. Eligible bidders, including the provisionally winning bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in subsequent rounds, the provisionally winning bid from the previous round will win the construction permit, unless that provisionally winning bid was withdrawn. If any bids are received on the construction permit in a subsequent round, the provisionally winning bid will once again be determined based on the highest bid amount received for the construction permit.

#### v. Bidding

105. During a round, a bidder may submit bids for as many construction permits as it wishes (subject to its eligibility), withdraw provisionally winning bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single construction permit in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders were warned that the bidding units associated with construction permits for which the bidder has removed or withdrawn its bid do not count towards the bidder's activity at the close of the round.

106. All bidding will take place remotely either electronically or by telephonic bidding through the FCC Auction System. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, at least five to ten minutes are necessary to complete a telephonic bid submission). There will be no on-site bidding during Auction No. 81.

107. A qualified bidder's ability to bid on specific construction permits in the first round of the auction is determined by two factors: (1) The construction permits designated for that applicant in Attachment A of the *Auction No. 81 Procedures Public Notice*, and (2) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those construction permits for which the bidder's engineering proposal is specified in the particular MX group as listed in the revised Attachment A of the *Auction No. 81 Procedures Public Notice*.

108. In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the password 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.

109. In each round, if the bidders have sufficient eligibility, bidders will be able to place bids on a given construction permit in any of nine different amounts. For each construction permit, the FCC Auction

System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Auction System also includes an upload function that allows bidders to upload text files containing bid information.

110. 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 is a provisionally winning bid on a construction permit, the FCC Auction System will calculate a minimum acceptable bid amount for that construction permit for the following round.

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

#### vi. Bid Removal and Bid Withdrawal

112. In the *Auction No. 81 Comment Public Notice*, the Bureaus proposed bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Bureaus proposed limiting each bidder to withdrawals in no more than one round during the course of the auction. The round in which withdrawals are used would be at each bidder's discretion. The Bureaus received no comments on this issue. These procedures will enhance bidder flexibility during the auction, and therefore, the Bureaus adopted them for Auction No. 81.

113. In previous auctions, the Bureaus have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While the Bureaus continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various construction permits in combination, the Bureaus conclude that, for Auction No. 81, adoption of a limit on the use of withdrawals to one round per bidder is appropriate. By doing so, the Bureaus believe the limitation strikes a reasonable compromise that will allow bidders to use withdrawals. The decision on this issue was based upon experience in prior auctions, particularly the PCS D, E and F block, 800 MHz SMR, and FM Broadcast auctions, and is in no way a reflection of the view of the Bureaus regarding the likelihood of any speculation or gaming in this auction.

114. The Bureaus therefore will limit the number of rounds in which bidders may place withdrawals to one round. The round will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in the round. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a construction permit.

115. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the remove 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.

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

117. If a provisionally winning bid is withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid received for the construction permit, which may be less than, or in the case of tied bids, equal to, the amount of the withdrawn bid. The Bureaus, however, retain the discretion to lower the minimum acceptable bid on such construction permits in the next round or in later rounds. To set the additional bid amounts, the second highest bid amount also will be used in place of the provisionally winning bid in the formula used to calculate bid increment amounts. The Commission will serve as a place holder provisionally winning bidder on the construction permit until a new bid is submitted on that construction permit.

118. *Calculation.* Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction pursuant to 47

CFR 1.2104(g) and 1.2109. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the provisionally winning bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single construction permit, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureaus retain the discretion to scrutinize multiple bid withdrawals on a single construction permit for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

119. The payment obligations, including interim bid withdrawal payments, of a bidder that withdraws a high bid on a construction permit during the course of an auction is specified by 47 CFR 1.2104(g)(1). As amended, 47 CFR 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a construction permit that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the construction permit. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. Section 1.2104(g) provides specific examples showing application of the bid withdrawal payment rule.

#### vii. Round Results

120. Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureaus will compile reports of all bids placed, bids withdrawn,

current provisionally winning bids, new minimum acceptable bid amounts, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 81 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.

#### vii. Auction Announcements

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

### V. Post-Auction Procedures

#### A. Down Payments and Withdrawn Bid Payments

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

123. 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. 81 to 20 percent of the net amount of its winning bids (gross bids less any applicable New Entrant bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g). (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

#### B. Final Payments

124. If a winning bidder's long-form application is uncontested, after the termination of the pleading cycle for petitions to deny, the Commission will issue, as specified by 47 CFR 73.5006, a public notice announcing that it is prepared to grant the winning bidder's long-form application. If a petition to deny is filed within the pleading cycle for petitions to deny, and if the petition to deny is dismissed or denied, the Commission will issue a public notice announcing that it is prepared to grant the winning bidder's long-form application promptly after the Media Bureau disposes of any such petition to deny and is otherwise satisfied that the applicant is qualified to hold the specified construction permit. Within ten (10) business days after the date of

the release of the public notice announcing that the Commission is prepared to grant a winning bidder's long-form application, each winning bidder will be required to submit the balance of the net amount of its winning bids (gross bids less any applicable New Entrant bidding credits). Broadcast construction permits will be granted only after the full and timely payment of winning bids and any applicable late fees, in accordance with 47 CFR 1.2109(a).

#### C. Long-Form Application

125. Within 30 business days after release of the auction closing notice, winning bidders must electronically submit a properly completed FCC Form 346 or FCC Form 301-CA, as appropriate, for each construction permit won through Auction No. 81. Winning bidders claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit, as required by 47 CFR 1.2109(a), 73.3573(f)(5)(ii), and 73.5006(d). Further filing instructions will be provided to auction winners at the close of the auction.

#### D. Default and Disqualification

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

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

127. All applicants that submit upfront payments but are not winning bidders for a construction permit in Auction No. 81 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from the applicant after any applicable bid withdrawal payments have been

paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

128. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a provisionally winning bid during the auction must submit a written refund request. If the bidder has completed the specified refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions 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.

129. Bidders are encouraged to file their refund information electronically using the Refund Information icon in the FCC Form 175, but bidders can 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 payer of record, as identified on the FCC Form 159.

Federal Communication Commission.

**Gary D. Michaels,**

*Deputy Chief, Auction Spectrum and Access Division, WTB.*

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**BILLING CODE 6712-01-P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may obtain copies of agreements by contacting the Commission's Office of Agreements at 202-523-5793 or via e-mail at [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov). Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 009831-022.

*Title:* New Zealand/United States Container Lines Association.

*Parties:* P&O Nedlloyd Limited, Hamburg-Süd, Australia-New Zealand Direct Line, and Lykes Lines Limited LLC.

*Filing Party:* Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

*Synopsis:* The amendment changes Lykes' name to CP Ships USA LLC.

*Agreement No.:* 010050-015.

*Title:* U.S. Flag Discussion Agreement.

*Parties:* American President Lines, Ltd.; A.P. Moller-Maersk A/S; Lykes Lines Limited, LLC; P&O Nedlloyd Limited; and Farrell Lines Incorporated.

*Filing Party:* Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

*Synopsis:* The amendment changes Lykes' name to CP Ships USA, LLC.

*Agreement No.:* 011117-036.

*Title:* United States/Australasia Discussion Agreement.

*Parties:* A.P. Moller-Maersk A/S; Australia-New Zealand Direct Line; CMA CGM, S.A.; Compagnie Maritime Marfret, S.A.; Fesco Ocean Management Limited; Hamburg-Süd; Lykes Lines Limited, LLC; P&O Nedlloyd Limited; Safmarine Container Lines NV; and Wallenius Wilhelmsen Lines AS.

*Filing Party:* Wayne R. Rohde, Esq., Sher & Blackwell, 1850 M Street, NW., Suite 900, Washington, DC 20036.

*Synopsis:* The amendment changes the name of Lykes Lines Limited, LLC to CP Ships USA, LLC.

*Agreement No.:* 011268-017.

*Title:* New Zealand/United States Discussion Agreement.

*Parties:* New Zealand/United States Container Lines

Association; P&O Nedlloyd Limited; Hamburg-Süd; LauritzenCool AB; Australia-New Zealand Direct Line; FESCO Ocean Management Ltd., A.P. Moller-Maersk A/S; and Lykes Lines Limited, LLC.

*Filing Party:* Wayne R. Rohde, Esq., Sher & Blackwell, LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

*Synopsis:* The amendment changes the name of Lykes Lines Limited, LLC to CP Ships USA, LLC.

*Agreement No.:* 011275-017.

*Title:* Australia/United States

Discussion Agreement

*Parties:* A.P. Moller-Maersk A/S; Australia-New Zealand Direct Line; FESCO Ocean Management Inc.; Hamburg-Süd; LauritzenCool AB; Lykes Lines Limited, LLC; P&O Nedlloyd Limited; Safmarine Container Lines NV; and Seatrade Group NV.

*Filing Party:* Wayne R. Rohde, Esq., Sher & Blackwell, 1850 M Street, NW., Suite 900, Washington, DC 20036.

*Synopsis:* The amendment changes the name of Lykes Lines Limited, LLC to CP Ships USA, LLC.

*Agreement No.:* 011384-004.

*Title:* M.O.S.K./HUAL Space Charter Agreement.