

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7969-5]

**Notice of Charter Renewals of the Children's Health Protection Advisory Committee (CHPAC)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of charter renewal.

**SUMMARY:** The charter for the Environmental Protection Agency's Children's Health Protection Advisory Committee (CHPAC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App 2 Section 9(c). The purpose of the CHPAC is to provide advice and recommendations to the Administrator of EPA on issues associated with development of regulations, guidance, and policies to address children's environmental health risks.

It is determined that the CHPAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be directed to Joanne Rodman, Designated Federal Officer, CHPAC, U.S. EPA, Office of Children's Health Protection, Mail Code 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Dated: September 8, 2005.

**William Sanders,***Acting Director, Office of Children's Health Protection.*

[FR Doc. 05-18347 Filed 9-14-05; 8:45 am]

**BILLING CODE 6560-50-P****FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD****Notice of Accounting and Auditing Policy Committee Meetings for 2006**

**Board Action:** Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and the FASAB Rules of Procedure, as amended in April, 2004, notice is hereby given that the Accounting and Auditing Policy (AAPC), a permanent committee established by the Federal Accounting Standards Advisory Board (FASAB) will meet on the following dates in room 6N30 of the GAO Building unless otherwise noted:

—Tuesday, January 24, 2006

—Tuesday, March 14, 2006

—Tuesday, May 9, 2006  
—Tuesday, July 18, 2006  
—Tuesday, September 12, 2006  
—Tuesday, October 31, 2006

The purposes of the meetings are to discuss issues related to:

—Heritage Assets and Stewardship Land Implementation,  
—Inter-Entity Cost Implementation, and  
—Any other topics as needed.

A more detailed agenda can be obtained from the Web site (<http://fasab.gov/aapc/aapc.html>) one week prior to each meeting.

Any interested person may attend the meetings as an observer. Board discussion and reviews are open to the public. GAO Building security requires advance notice of your attendance. Please notify FASAB of your planned attendance by calling 202-512-7350 at least one day prior to the respective meeting.

**For Further Information, Contact:** Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512-7350.

**Authority:** Federal Advisory Committee Act. Pub. L. No. 92-463.

Dated: September 9, 2005.

**Charles W. Jackson,***Federal Register Liaison Officer.*

[FR Doc. 05-18304 Filed 9-14-05; 8:45 am]

**BILLING CODE 1610-01-M****FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD****Notice of Accounting and Auditing Policy Committee Meeting on September 16, 2005**

**Board Action:** Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and the FASAB Rules Of Procedure, as amended in April, 2004, notice is hereby given that the Accounting and Auditing Policy Committee (AAPC), a permanent committee established by the Federal Accounting Standards Advisory Board (FASAB) will meet on September 16, 2005 at 10 am in room 6N30 of the US Government Accountability Office (GAO) Building (441 G Street NW).

The purpose of the meeting is to discuss issues related to:

—Heritage Assets and Stewardship Land Implementation,  
—Inter-Entity Cost Implementation, and  
—Administrative Matters (Closed Session)

A more detailed agenda can be obtained from the AAPC website (<http://fasab.gov/aapc/aapc.html>).

Any interested person may attend the meeting as an observer. Board discussion and reviews are open to the public. GAO Building security requires advance notice of your attendance. Please notify FASAB of your planned attendance by calling 202-512-7350 at least one day prior to the respective meeting.

**For Further Information Contact:** Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512-7350.

**Authority:** Federal Advisory Committee Act. Pub. L. No 92-463.

Dated: September 9, 2005.

**Charles W. Jackson,***Federal Register Liaison Officer.*

[FR Doc. 05-18305 Filed 9-14-05; 8:45 am]

**BILLING CODE 1610-01-M****FEDERAL COMMUNICATIONS COMMISSION**

[Report No. AUC-63-C (Auction No. 63); DA 05-2188]

**Auction of Multichannel Video Distribution and Data Service Licenses Schedule for December 7, 2005—Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 63****AGENCY:** Federal Communications Commission.**ACTION:** Notice.

**SUMMARY:** This document announces the procedures and minimum opening bids for the upcoming auction of licenses in the Multichannel Video Distribution and Data Service (MVDDS). This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

**DATES:** Auction No. 63 is scheduled to begin on December 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** For legal questions: Brian Carter at (202) 418-0660. For general auction questions: Debbie Smith, Roy Knowles or Barbara Sibert at (717) 338-2888. For service rules questions, contact the Broadband Division, Wireless Telecommunications Bureau as follows: Mindy Littell or Michael Pollack at (202) 418-2487.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 63 Procedures Public Notice* released on August 9, 2005. The complete text of the *Auction No. 63 Procedures Public Notice*, including attachments and

related Commission documents is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Auction No. 63 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>. When ordering documents from BCPI, please provide the appropriate FCC document number (for example, FCC 00-313 for the C/F Block Sixth Report and Order). The *Auction No. 63 Procedures Public Notice* and related documents are also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/63/>.

**I. General Information**

**A. Introduction**

1. The Wireless Telecommunications Bureau (Bureau) announces the procedures and minimum opening bid amounts for the upcoming auction of Multichannel Video Distribution and Data Service (MVDDS) licenses scheduled for December 7, 2005 (Auction No. 63). On June 9, 2005, in accordance with Section 309(j)(3) of the Communications Act of 1934, as amended, the Bureau released a public

notice seeking comment on reserve prices or minimum opening bid amounts and the procedures to be used in *Auction No. 63*. The Bureau received no comments in response to the *Auction No. 63 Comment Public Notice*, 70 FR 36169, June 22, 2005.

**i. Background of Proceeding**

2. On December 8, 2000, the Commission released the *First Report and Order and Further Notice of Proposed Rule Making* in ET Docket No. 98-206, 66 FR 7607, January, 24, 2001, which authorized MVDDS as a new service under the existing primary status fixed service allocation in the 12.2-12.7 GHz band. On May 23, 2002, the Commission released the *Second Report and Order*, 67 FR 43031, June 26, 2002, which adopted technical and service rules, including competitive bidding rules, for MVDDS. On April 15, 2003, the Commission released the *Second Further Notice of Proposed Rule Making*, 68 FR 19486, April 21, 2003, which sought further comment on the appropriate service area definition for MVDDS and on whether the build out requirement for this service should be modified.

3. On July 7, 2003, the Commission released the *Third Report and Order*, 68 FR 42610, July 18, 2003, in which it decided to license MVDDS using service areas based on the Designated Market Areas (DMAs) delineated by Nielsen Media Research, Inc. (Nielsen Media), in its publication entitled *U.S. Television Household Estimates* dated September 2002, rather than Component Economic

Areas (CEAs). In the *Third Report and Order* the Commission also adopted a five-year build out requirement.

4. MVDDS licensees may provide any digital fixed one-way non-broadcast service including direct-to-home/office wireless service. Mobile and aeronautical services are not authorized. Two-way services may be provided by using other spectrum or media for the return or upstream path. MVDDS providers will share the 12.2-12.7 GHz band on a co-primary basis with non-geostationary satellite orbit (NGSO) fixed-satellite services (FSS) and on a non-harmful interference basis with incumbent Direct Broadcast Satellite (DBS) providers. The technical criteria for sharing established in the *Second Report and Order* are designed to protect NGSO FSS and DBS operations from harmful interference.

**ii. Licenses To Be Auctioned**

5. Auction No. 63 will offer 22 MVDDS licenses in the 12 GHz band. These licenses remained unsold in Auction No. 53, which closed on January 27, 2004. Each license will authorize the use of one block of unpaired spectrum in the 12.2-12.7 GHz band. For Auction No. 63, licenses are not available in every market. A complete list of the licenses available in Auction No. 63 and their descriptions is included in Attachment A of the *Auction No. 63 Procedures Public Notice*.

6. The following table contains the characteristics of the licenses that will be offered in Auction No. 63:

Frequency band (GHz)	Total bandwidth	Pairing	Geographic area type	Number of licenses
12.2-12.7 .....	500 MHz .....	Unpaired .....	MVDDS service areas .....	22

**B. Rules and Disclaimers**

**i. Relevant Authority**

7. Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including recent amendments and clarifications; rules relating to MVDDS contained in Title 47, part 101, of the Code of Federal Regulations; and those relating to application and auction procedures, contained in Title 47, part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, terms) contained in this public notice; the Commission's decisions in proceedings regarding competitive bidding

procedures, application requirements, and obligations of Commission licensees.

8. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

**ii. Prohibition of Collusion**

9. To ensure the competitiveness of the auction process, the Commission's part 1 rules prohibits applicants for any

of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii). Thus, applicants for any of the same geographic license areas must affirmatively avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bids or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. This prohibition applies to all applicants regardless of whether such applicants become

qualified bidders or actually bid. For purposes of this prohibition, § 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity.

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

11. The Commission's anti-collusion rule allows applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering any of the same geographic areas. In addition, applicants that apply to bid for all markets will be precluded from communicating with all other applicants until after the down payment deadline. However, all applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their FCC Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties

on its application, and may not continue negotiations. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

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

13. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process. Any applicant found to have violated the anti-collusion rule may be subject to sanctions, including forfeiture of its upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions. In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.

14. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment E of the *Auction No. 63 Procedures Public Notice*.

#### iii. Interference Protection

15. Among other licensing and technical rules, MVDDS licensees must

comply with the interference protection and coordination requirements set forth in §§ 101.103, 101.105, 101.109, 101.129, 101.1421, and 101.1440 of the Commission's rules. Generally, §§ 101.103, 101.105, 101.109, 101.129, 101.1421, and 101.1440 establish standards for protection of co-primary NGSO FSS earth stations, incumbent and adjacent area licensees and co-primary DBS earth stations. MVDDS shall be licensed on a non-harmful interference co-primary basis to existing DBS operations and on a co-primary basis with NGSO FSS stations in this band. MVDDS licensees must also protect and/or develop sharing agreements with neighboring licensees.

#### a. Incumbent Licensees

16. Terrestrial private operational fixed point-to-point stations in the 12.2–12.7 GHz band which were licensed prior to MVDDS are incumbent point-to-point stations. However, only those stations licensed as public safety must be protected from harmful interference caused by later MVDDS entrants in the 12.2–12.7 GHz band. MVDDS operators have the responsibility of resolving any harmful interference problems that their operations may cause to these public safety incumbent point-to-point operations in the 12.2–12.7 GHz band.

#### b. Canadian and Mexican Border Regions

17. MVDDS systems in the United States within 56 km (35 miles) of the Canadian and Mexican border will be granted conditional licenses, until final international agreements are approved. MVDDS systems may not cause harmful interference to stations in Canada or Mexico. No stations are allowed within 5 miles of the borders.

#### c. Quiet Zone

18. MVDDS stations must protect the radio quiet zones set forth in the Commission's rules. Stations are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating within the areas described in the Commission's rules.

#### iv. Due Diligence

19. Potential applicants are reminded that there are a number of incumbent terrestrial private operational fixed point-to-point licensees in the 12.2–12.7 GHz band which were licensed prior to MVDDS and are not entitled to protection from harmful interference caused by later MVDDS entrants in the 12.2–12.7 GHz band, except for public safety stations, which must be protected. MVDDS has the

responsibility of resolving any harmful interference problems that their operations may cause to these public safety incumbent point-to-point operations in the 12.2–12.7 GHz band. To aid potential bidders, a list of public safety incumbents in this band is attached as Appendix I to the Second Report and Order, ET Docket No. 98–206, released May 23, 2002. These limitations may restrict the ability of such MVDDS geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. The Bureau therefore cautions potential applicants in formulating their bidding strategies to investigate and consider the extent to which MVDDS frequencies are occupied by incumbents.

20. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 63.

21. Applicants 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 licensees or the licenses available in Auction No. 63. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 63. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

22. Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. The Bureau notes that resolution of such matters could have an impact on the availability of spectrum for Auction No. 63. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

23. Applicants may obtain information about incumbent licenses that may have an effect on availability of licenses in Auction No. 63 through the Bureau's licensing databases on the World Wide Web at <http://>

[wireless.fcc.gov/uls](http://wireless.fcc.gov/uls). Applicants should direct questions regarding the ULS search capabilities to the FCC ULS Technical Support hotline at (877) 480–3201, option two. The hotline is available to assist with questions Monday through Friday, from 8 a.m. to 7 p.m. et.

24. 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 an applicant, applicants 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.

25. 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.

#### v. Bidder Alerts

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

27. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 63 to deceive and defraud unsuspecting investors. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 63 may also call the FCC Consumer

Center at (888) CALL–FCC ((888) 225–5322).

#### vi. National Environmental Policy Act Requirements

28. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a Federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains).

#### C. Auction Specifics

##### i. Auction Date

29. Bidding in Auction No. 63 will begin on Wednesday, December 7, 2005, as announced in the *Auction No. 63 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 licenses will be conducted on each business day until bidding has stopped on all licenses.

##### ii. Auction Title

30. Auction No. 63–MVDDS.

##### iii. Bidding Methodology

31. The bidding methodology for Auction No. 63 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: September 28, 2005.  
Short-Form Application (FCC Form 175) Filing Window Opens: September 28, 2005; 12 p.m. e.t.  
Short-Form Application (FCC Form 175) Filing Window Deadline: October 7, 2005; 6 p.m. e.t.  
Upfront Payments (via wire transfer): November 7, 2005; 6 p.m. e.t.  
Mock Auction: December 5, 2005.  
Auction Begins: December 7, 2005.

32. Requirements for Participation.  
Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically prior to 6 p.m. eastern time (e.t.), October 7, 2005, following the electronic filing

procedures set forth in Attachment C to this public notice.

- Submit a sufficient upfront payment and an FCC Remittance Advice

Form (FCC Form 159) by 6 p.m. e.t., November 7, 2005.

- Comply with all provisions outlined in this public notice.

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, Due Diligence, Incumbency Issues.	Broadband Division, (202) 418-2487.
Technical Support: Electronic Filing, FCC Auction System .....	FCC Auctions Technical Support, (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).
Auction Bidder Line .....	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, <a href="http://www.bcpiweb.com">http://www.bcpiweb.com</a> .
Press Information .....	Chelsea Fallon (202) 418-7991.
FCC Forms .....	(800) 418-3676 (outside Washington, DC), (202) 418-3676 (in the Washington area), <a href="http://www.fcc.gov/formpage.html">http://www.fcc.gov/formpage.html</a> .
FCC Internet Sites .....	<a href="http://www.fcc.gov">http://www.fcc.gov</a> , <a href="http://wireless.fcc.gov/auctions">http://wireless.fcc.gov/auctions</a> , <a href="http://wireless.fcc.gov/uls">http://wireless.fcc.gov/uls</a> .

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

33. A party's application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits.

34. The short-form application is the first part of the Commission's two-phased auction application process which contemplates that potential licensees file streamlined, short-form applications in which applicants certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on the applicants' short-form applications and certifications. In the second phase, winning bidders file a more comprehensive long-form application.

35. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license. Applicants should note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application, its certifications and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

36. Applicants bear full responsibility for submission of timely and complete FCC Form 175 applications. Applicants to participate in Auction No. 63 must file FCC Form 175 electronically prior to 6 p.m. ET on October 7, 2005, following the procedures set forth in Attachment C of the *Auction No. 63 Procedures Public Notice*. Applicants should read the instructions set forth in Attachment C of the *Auction No. 63 Procedures Public Notice* carefully and should consult the Commission's rules to ensure that, in addition to the materials described below, all the information that is required under the Commission's rules is included with their FCC Form 175 applications.

37. An entity may not submit more than one short-form application in a single auction. In the event that a party submits multiple FCC Forms 175, such additional applications will be dismissed.

38. For Auction No. 63, if an applicant claims eligibility for a bidding credit, the information provided in its FCC Form 175 will be used in determining whether the applicant is eligible for the claimed bidding credit. Applicants should further note that they must fulfill the certification requirements of § 101.1412(g)(2) of the Commission's rules relating to complying with the eligibility restrictions for cable operators. Specifically, applicants must certify as an attachment to their short-form application that they, and all parties to the application, will come into compliance with § 101.1412(a) of the Commission's rules.

A. Preferences for Small Businesses and Others

i. Size Standards for Bidding Credits

39. In the Second Report and Order, the Commission determined that three levels of bidding credits are appropriate for MVDDS. A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.

40. For Auction No. 63 bidding credits will be available to very small businesses, small businesses, and entrepreneurs, or consortia thereof, as follows:

- A bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years (very small business) will receive a 35 percent discount on its winning bids.

- A bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years (small business) will receive a 25 percent discount on its winning bids.

- A bidder with attributed average annual gross revenues that exceed 15 million and do not exceed \$40 million for the preceding three years (entrepreneur) will receive a 15 percent discount on its winning bids.

41. Bidding credits are not cumulative; a qualifying applicant receives the 35 percent, 25 percent, or

15 percent bidding credit on its winning bid, but only one credit per license.

42. Applicants should note that they will be required to provide information regarding revenues attributable to the applicant and related parties on their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as a very small business, small business, or an entrepreneur (or consortia of a very small business, small business or entrepreneur) for this auction.

ii. Tribal Lands Bidding Credit

43. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit.

iii. Installment Payments

44. Installment payment plans will not be available in Auction No. 63.

*B. License Selection*

45. In Auction No. 63, applicants must select the licenses on which they want to bid from the Eligible Licenses list. The applicant may select all the licenses in the list (by using the SELECT ALL option) or select and add individual licenses from the list. Be advised that there is no opportunity to change license selection after the short-form filing deadline. It is critically important that you confirm your license selection because the FCC Auction System will not accept bids on licenses that an applicant has not selected on its FCC Form 175.

*C. Consortia and Joint Bidding Arrangements*

46. Applicants will be required to indicate on their applications whether they have entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. Applicants will also be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. If an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue such discussions with applicants for

any of the same geographic license areas after the deadline.

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

*D. Ownership Disclosure Requirements*

48. All applicants must comply with the uniform part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to fully disclose information on the real party or parties-in-interest and ownership structure of the bidding entity. The ownership disclosure standards for the short form are set forth in § 1.2112 of the Commission's rules. To simplify filling out Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with Form 175, such as information submitted in an on-line Form 602, will automatically be entered into Form 175. Applicants are responsible for information submitted in Form 175 being complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing Form 175. Applicants can update any information that needs to be changed directly in the Form 175.

49. To simplify filling out FCC Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with FCC Form 175, such as information submitted in an on-line FCC Form 602 in connection with wireless services, will automatically be entered into FCC Form 175.

*E. Bidding Credit Revenue Disclosures*

50. Entities applying to bid as very small businesses, small businesses, or entrepreneurs (or consortia of very small businesses, small businesses, or entrepreneurs) will be required to disclose on their FCC Form 175 short-form applications the gross revenues for the preceding three years of each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. In order to comply with disclosure requirements for bidding credit eligibility, an applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, the gross revenues for each of the preceding three years. If the applicant is applying as a consortium of very small businesses, small businesses, or entrepreneurs, this information must be provided for each consortium member.

51. Controlling interest standard. The Commission uses a controlling interest standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions. The Commission has modified its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes included exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met. The Commission also clarified that in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors will not be attributed to the applicant.

52. Control. The term control includes both *de facto* and *de jure* control of the applicant. Typically, ownership of at least 50.1 percent of an entity's voting stock evidences *de jure* control. *De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee
- The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

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

54. A consortium of very small businesses, small businesses, or entrepreneurs is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually must satisfy one of the definitions of very small business, small business, or entrepreneur in §§ 1.2110(f), 101.1429. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. The Bureau notes that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for very small business, small business, or entrepreneur, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

#### *F. Provisions Regarding Former and Current Defaulters*

55. Each applicant must state under penalty of perjury on its FCC Form 175 application whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by § 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must certify under penalty of perjury on its FCC Form 175 application that the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by § 1.2110, are not in default on any payment for Commission licenses (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Prospective applicants 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.

56. Former defaulters—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 63, provided that they are otherwise qualified. However, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

57. 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. 63.

58. Applicants are encouraged to review the 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 applicant's ability to comply with the default and delinquency disclosure requirements.

#### *G. Eligibility Restrictions for Cable Operators*

59. Applicants should note that § 101.1412 of the Commission's rules provides certain eligibility restrictions for cable operators. Specifically, no cable operator, nor any entity owning an attributable interest in a cable operator, shall have an attributable interest in an MVDDS license if such cable operator's service area significantly overlaps the MVDDS license area. Applicants must certify as an attachment to their short-form application that they, and all parties to the application, will come into compliance with § 101.1412(a) regarding eligibility restrictions for cable operators. This certification should be included as an attachment named Eligibility Certification.

#### *H. Other Information*

60. Applicants owned by minorities or women, as defined in § 1.2110(c)(2), may identify themselves in filling out their FCC Form 175 short-form

application regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of designated entities in its auctions.

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

61. After the short-form filing deadline (6 p.m. ET October 7, 2005), applicants may make only minor changes to their applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change control of the applicant, or increase a previously claimed bidding credit eligibility). Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and addresses and phone numbers of the applicants and their contact persons. 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. 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: [auction63@fcc.gov](mailto:auction63@fcc.gov).

#### *J. Maintaining Current Information in Short-Form Applications (FCC Form 175)*

62. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

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

#### *A. Auction Seminar—September 28, 2005*

63. On Wednesday, September 28, 2005, the FCC will sponsor a seminar for parties interested in participating in Auction No. 63 at the Federal Communications Commission headquarters, located at 445 12th Street,

SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, completing FCC Form 175, auction conduct, the FCC Auction System, auction rules, and the MVDDS service rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

64. To register, complete the registration form in Attachment B of the *Auction No. 63 Procedures Public Notice* and submit it by Monday, September 26, 2005. Registrations are accepted on a first-come, first-served basis. The seminar is free of charge.

65. For individuals who are unable to attend, an Audio/Video webcast of this seminar will be available from the FCC's Auction 63 web page at <http://wireless.fcc.gov/auctions/63/>.

*B. Short-Form Application (FCC Form 175)—Due October 7, 2005*

66. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and be received at the Commission prior to 6 p.m. ET on October 7, 2005. Late applications will not be accepted. There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment.

67. Applications may generally be filed at any time beginning at noon ET on September 28, 2005, until 6 p.m. ET on October 7, 2005. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on October 7, 2005.

68. Applicants must always click on the SUBMIT button on the Certify & Submit screen of the electronic form to successfully submit their FCC Form 175s or modifications. Any form that is not submitted will not be reviewed by the FCC. Information about accessing, completing, and viewing the FCC Form 175 is included in Attachment C of the *Auction No. 63 Procedures Public Notice*. FCC Auctions Technical Support is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8 a.m. to 6 p.m. ET.

*C. Application Processing and Minor Corrections*

69. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine

which are acceptable for filing, and subsequently will issue a public notice identifying: (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.

70. As described more fully in the Commission's rules, after the October 7, 2005, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change control of the applicant, or increase a previously claimed bidding credit eligibility).

*D. Upfront Payments—Due November 7, 2005*

71. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received in the proper account at Mellon Bank by 6 p.m. ET on November 7, 2005.

*i. Making Auction Payments by Wire Transfer*

72. Wire transfer payments must be received by 6 p.m. ET on November 7, 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.

73. Applicants must fax a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write Wire Transfer—Auction Payment for Auction No. 63. In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

*ii. FCC Form 159*

74. A completed FCC Remittance Advice Form (FCC Form 159, Revised

2/03) must be faxed 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. 63 Procedures Public Notice*. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

*iii. Amount of Upfront Payment*

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

76. In the *Auction No. 63 Comment Public Notice*, the Bureau 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 license, otherwise qualified bidders that applied for that license on Form 175 must have a current eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold provisionally winning bids at any given time.

77. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed

upfront payments on a license-by-license basis as follows:

- The upfront payment for each license in Auction No. 63 is based on 50 percent of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of \$1,000 per license.

78. The specific upfront payments and bidding units for each license are

set forth in Attachment A of the *Auction No. 63 Procedures Public Notice*.

79. 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 licenses 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.	Market name	Bidding units	Upfront payment
MVD038 .....	Grand Rapids-Kalamazoo-B.Crk .....	47,000	\$47,000
MVD207 .....	Helena .....	1,600	1,600

80. Former defaulters should calculate their upfront payment for all licenses 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 licenses applied for on its Form 175, the applicant will not be eligible to participate in the auction.

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

81. The Commission will use wire transfers for all Auction No. 63 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed in the *Auction No. 63 Procedures Public Notice* be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418-2843. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418-0578.

#### E. Auction Registration

82. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175

applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

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

84. 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, December 1, 2005, should call (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.

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

#### F. Remote Electronic Bidding

86. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically and telephonically. Each applicant should indicate its bidding preference—electronic or

telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards, the telephonic bidding 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. 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. 63.

87. Please note that the SecurID cards can be recycled, and the Bureau encourages bidders to return the cards to the FCC. The Bureau will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

#### G. Mock Auction—December 5, 2005

88. All qualified bidders will be eligible to participate in a mock auction on Monday, December 5, 2005. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

#### IV. Auction Event

89. The first round of bidding for Auction No. 63 will begin on Wednesday, December 7, 2005. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

### A. Auction Structure

#### i. Simultaneous Multiple Round Auction

90. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to award all licenses in Auction No. 63 in a simultaneous multiple round auction. In a simultaneous multiple round auction, all licenses are available during the entire auction, and bids are accepted on any license until the auction concludes. The Bureau concludes that it is operationally feasible and appropriate to auction the MVDDS licenses through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, the Bureau believes, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

#### ii. Eligibility and Activity Rules

91. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 63 Procedures Public Notice* on a bidding unit per dollar basis. Bidding units for a given license do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any of the licenses selected on its FCC Form 175 as long as the total number of bidding units associated with those licenses does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on or hold provisionally winning bids on in any single round, and submit an upfront payment amount covering that total number of bidding units. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

92. 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 are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

93. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the 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 procedures have proven successful in maintaining the pace of previous auctions, the Bureau adopts them for Auction No. 63.

#### iii. Auction Stages

94. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to conduct the auction in two stages and employ an activity rule. The Bureau 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 licenses representing at least 80 percent of its current bidding eligibility. Finally, the Bureau 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 Bureau received no comments on this proposal.

95. The Bureau adopts the following activity levels for each stage of the auction. The Bureau reserves the discretion to further alter the activity percentages before and/or during the auction.

*Stage One:* During the first stage of the auction, a bidder desiring to maintain its current bidding eligibility will be required to be active on licenses 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 in the next round of bidding unless an activity rule waiver is used. During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by five-fourths ( $\frac{5}{4}$ ).

*Stage Two:* During the second stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's

bidding eligibility in the next round of bidding unless an activity rule waiver is used. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by twenty-nineteenths ( $\frac{20}{19}$ ).

*Caution:* Since activity requirements increase in Stage Two, bidders must carefully check their activity during the first round following a stage transition to ensure that they are meeting the increased activity requirement. This is especially critical for bidders that have provisionally winning bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by either logging in to the FCC Auction System or by accessing the bidder summaries on the public results page.

#### iv. Stage Transitions

96. The auction will start in Stage One and will generally advance to Stage Two when, in each of three consecutive rounds of bidding, the provisionally winning bids have been placed on 20 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

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

97. Each bidder will 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 license. 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 Bureau is satisfied that its practice of providing 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.

98. 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. If a bidder has no waivers remaining and does not satisfy the activity requirement, the FCC Auction System will permanently reduce the bidder's eligibility, possibly eliminating the bidder from further bidding in the auction.

99. 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.

100. Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the apply waiver function in the FCC Auction System) during a bidding round in which no bids 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. 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

101. For Auction No. 63, the Bureau proposed to employ a simultaneous stopping rule approach. The Bureau 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 licenses after the first round in which no bidder applies a waiver, places a withdrawal, or submits any new bids on any license on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

102. The Bureau 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.

103. In addition, The Bureau proposed that it reserve the right to declare that the auction will end after a specified number of additional rounds (special stopping rule). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

104. The Bureau proposed to exercise these options only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is 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 licenses where there is still a high level of bidding activity.

105. The Bureau adopts its proposals. Auction No. 63 will begin under the simultaneous stopping rule approach, and the Bureau will retain the discretion to invoke the other versions of the stopping rule. The Bureau believes that these stopping rules are most appropriate for Auction No. 63, because our 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

106. The Bureau adopts its proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of

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

#### B. Bidding Procedures

##### i. Round Structure

107. 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.

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

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

109. Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the

availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

110. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 63 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 63, the Bureau proposed to calculate minimum opening bids on a license-by-license basis as follows:

- The minimum opening bid amount for each license in Auction No. 63 is based on a 50 percent reduction of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of \$1,000 per license.

111. In the alternative, the Bureau sought comment on whether, consistent with the Section 309(j), the public interest would be served by having no minimum opening bid or reserve price.

112. The Bureau adopts its proposal. The minimum opening bid amounts the Bureau adopts for Auction No. 63 are reducible at the discretion of the Bureau. The Bureau emphasizes, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid amount on specific licenses.

113. The specific minimum opening bid amounts for each license available in Auction No. 63 are set forth in Attachment A of the *Auction No. 63 Procedures Public Notice*.

#### iii. Minimum Acceptable Bid Amounts and Bid Increment Amounts

114. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to use a minimum acceptable bid increment of five percent. This means that the minimum acceptable bid amount for a license will be approximately five percent greater than the provisionally winning bid amount for the license. The minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage—*e.g.*, if the minimum acceptable bid percentage is 5 percent, the minimum acceptable bid amount calculation is (provisionally winning

bid amount) \* (1 + 0.05), rounded or (provisionally winning bid amount) \* (1.05), rounded. The Bureau will round the result using our standard rounding procedures. The Bureau further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if the Bureau determine that circumstances so dictate. The Bureau received no comment on this issue. The Bureau will begin the auction with a minimum acceptable bid percentage of 5%.

115. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Auction System will list the nine acceptable bid amounts for each license. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount.

116. The nine acceptable bid amounts for each license 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 5 percent, then the next bid amount will equal (minimum acceptable bid amount) \* 1.05, 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) \* 1.10, 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) \* 1.15, rounded; etc. The Bureau will begin the auction with a bid increment percentage of 5 percent. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

117. In the case of a license for which the provisionally winning bid amount has been withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid amount received for the license. The additional bid amounts above the minimum acceptable bid amount are calculated using the bid increment percentage as described in the previous paragraph.

118. The Bureau retains 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 Bureau will do so by announcement in the FCC Auction System. The Bureau may also use its discretion to adjust the minimum bid increment amount without prior notice if circumstances warrant.

#### iv. Provisionally Winning Bids

119. At the end of each bidding round, a provisionally winning bid will be determined based on the highest bid amount received for each license. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

120. In the *Auction No. 63 Comment Public Notice*, the Bureau 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 license in a given round (*i.e.*, tied bids). No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A 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 license, unless that provisionally winning bid was withdrawn. If any bids are received on the license in a subsequent round, the provisionally winning bid will once again be determined based on the highest bid amount received for the license.

#### v. Bidding

121. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw provisionally winning bids from previous bidding rounds, remove bids placed in the current bidding round, or permanently reduce eligibility. Bidders also have the option of submitting and removing multiple bids and withdrawing multiple provisionally winning bids (subject to the limitation on withdrawal rounds discussed below) during a round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders

should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder's current activity.

122. All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction No. 63. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a telephonic bid submission.

123. A bidder's ability to bid on specific licenses is determined by two factors: (1) the licenses applied for on the bidder's FCC Form 175 and (2) the bidder's current eligibility. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

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

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

126. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount. Once there is a provisionally winning bid on a license, the FCC Auction System will calculate a minimum acceptable bid amount for that license for the following round.

127. Finally, bidders are 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

128. In the *Auction No. 63 Comment Public Notice*, the Commission proposed bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Commission 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 Bureau received no comments on this issue.

129. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the remove 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. These procedures will enhance bidder flexibility during the auction, and therefore the Bureau adopts them for Auction No. 63.

130. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw provisionally winning bids from previous rounds using the withdraw bids function in the FCC Auction System (assuming that the bidder has not already withdrawn bids in a previous round). 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: Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.

131. In previous auctions, the Bureau has detected bidder conduct that, arguably, may have constituted anti-competitive behavior through the use of bid withdrawals. While the Bureau continues to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various licenses in combination, the Bureau concludes that, for Auction No. 63, adoption of a limit on the use of withdrawals to one round per bidder is appropriate. By doing so the Bureau believes it strikes a reasonable compromise that will allow bidders to use withdrawals. The Bureau bases its decision on this issue upon its experience with bid withdrawals in prior auctions, including PCS D, E and F block and 800 MHz SMR, and FM broadcast auctions. The Bureau's

decision is in no way a reflection of its view regarding the likelihood of any "gaming" in this auction.

132. The Bureau will therefore 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). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

133. If a provisionally winning bid is withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid received for the license, which may be less than, or in the case of tied bids, equal to, the amount of the withdrawn bid. 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 license until a new bid is submitted on that license.

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

evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

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

#### vii. Round Results

136. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureau 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. 63 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

#### viii. Auction Announcements

137. 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

138. 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.

139. 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. 63 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business, very small business, or entrepreneur bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in Bid Removal and Bid Withdrawal.

#### B. Final Payments

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

#### C. Long-Form Application (FCC Form 601)

141. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) for each license won through Auction No. 63. Winning bidders that are very small businesses, small businesses, or entrepreneurs must demonstrate their eligibility for very small business, small business, or entrepreneur bidding credits. See 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

#### D. Ownership Disclosure Information Report (FCC Form 602)

142. At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 CFR 1.913, 1.919, and 1.2112. An ownership disclosure record was automatically created in the Universal Licensing System (ULS) for any applicant that submitted an FCC Form 175. However, winning bidders will be required to review and confirm that it is complete and accurate as of the date of filing Form 601. Further instructions will be provided to auction winning bidders at the close of the auction.

#### E. Tribal Land Bidding Credit

143. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally recognized tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or below 85 percent is eligible to receive a tribal land bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A tribal land bidding credit is in addition to,

and separate from, any other bidding credit for which a winning bidder may qualify.

144. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal land bidding credit after winning the auction when it files its long-form application (FCC Form 601). When initially filing the long-form application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal land bidding credit, for each market won in the auction, by checking the designated box(es). After stating its intent to seek a tribal land bidding credit, the applicant will have 180 days from the close of the long-form filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 CFR 1.2110(f)(3)(vi).

145. For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices. Relevant documents can be viewed on the Commission's web site by going to <http://wireless.fcc.gov/auctions> and clicking on the Tribal Land Credits link.

#### F. Default and Disqualification

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

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

147. All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 63 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.

148. 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 you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund requests to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

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

Federal Communications Commission.

**Gary Michaels,**

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

[FR Doc. 05-18478 Filed 9-14-05; 8:45 am]

**BILLING CODE 6712-01-P**

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## FEDERAL ELECTION COMMISSION

### Sunshine Act Notices

**DATE AND TIME:** Tuesday, September 20, 2005 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This Meeting Will Be Closed To The Public.

**ITEMS TO BE DISCUSSED:** Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures

or matters affecting a particular employee.

(**Note:** The Starting Time For The Open Meeting On September 22, 2005 Has Been Changed To 2 p.m.)

**DATE AND TIME:** Thursday, September 22, 2005, at 2 p.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor).

**STATUS:** This Meeting Will Be Open To The Public.

**ITEMS TO BE DISCUSSED:** Correction and Approval of Minutes.

Advisory Opinion 2005-11: Friends of Duke Cunningham, by Kenneth Batson, Treasurer.

Advisory Opinion 2005-12: Representative Chaka Fattah, by counsel, Neil Reiff. Draft Notice of Proposed Rulemaking on Definitions of "Solicit" and "Direct." (11 CFR 300.2(m) and (n)).

Routine Administrative Matters.

**PERSON TO CONTACT FOR INFORMATION:**

Mr. Robert Biersack, Press Officer, Telephone: (202) 694-1220.

**Mary W. Dove,**

*Secretary of the Commission.*

[FR Doc. 05-18409 Filed 9-13-05; 10:30 am]

**BILLING CODE 6715-01-M**

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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 29, 2005.

**A. Federal Reserve Bank of Atlanta** (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30303:

1. *Clara Brown*, Jasper, Tennessee; to acquire additional voting shares of General Bancshares, Inc., and thereby indirectly acquire Citizens State Bank, both of Jasper, Tennessee.

2. *Robert Thomas, Monteagle, Tennessee, Robert Thomas, Jr., Signal Mountain, Tennessee, David Thomas, Chattanooga, Tennessee, and Frank Thomas, Monteagle, Tennessee;* to acquire additional voting shares of General Bancshares, Inc., Jasper, Tennessee, and thereby indirectly acquire Citizens State Bank, Jasper, Tennessee.

Board of Governors of the Federal Reserve System, September 9, 2005.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 05-18302 Filed 9-14-05; 8:45 am]

**BILLING CODE 6210-01-S**

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## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 2005.

**A. Federal Reserve Bank of Boston** (Richard Walker, Community Affairs