

were the first to identify the issue in late Spring 2023 and raise the concern to VA that this change was never contemplated during the intensive collaboration with DoD and the services in the TSGLI Year Ten Review. Their concern arose from whether VA had made a change in OTI vs. TBI losses related to severity of injury in opposition to the long-standing rationale of the program they understood and supported. VA assured DoD and the uniformed services that the change was an inadvertent typographical error, and no change had been intended.

Based on the foregoing, VA adopts the proposed rule, without change, as a final rule.

#### **Executive Orders 12866, 13563, and 14192**

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this final rule is not a significant regulatory action under E.O. 12866.

Through this rulemaking, VA will restore the intended payment schedule for TSGLI benefits, thereby preventing confusion and unnecessary re-processing of claims. Absent this rulemaking, VA staff would continue to spend more time adjudicating appeals and handling inconsistencies from the current payment structure. While VA is unable to quantify measurable cost savings, these qualitative benefits will generate positive outcomes to society, such as reductions in burden and confusion among stakeholders. This final rule is a deregulatory action under Executive Order 14192 as it removes an unintended burden and provides a net positive benefit to society.

**Economic Impact:** There are no costs or savings associated with this final rule. This rule ensures the TSGLI is managed according to actuarially sound principles, maintaining the TSGLI premium at a low rate. TSGLI is funded by the premiums that Service members pay for TSGLI coverage, and as such, there will be no cost to the Government with this final rulemaking.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act

(5 U.S.C. 601–612). The overall impact of this final rule would be of no benefit or detriment to small businesses. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### **Unfunded Mandates**

This final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

#### **Paperwork Reduction Act**

Although this final rule contains collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), there are no provisions associated with this rulemaking constituting any new collection of information or any revisions to the existing collection of information. The collection of information for 38 CFR 9.21 is currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0919.

#### **Assistance Listing**

The Assistance Listing number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

#### **Congressional Review Act**

Pursuant to Congressional Review Act) (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 38 CFR Part 9**

Life insurance, Military personnel, Veterans.

#### **Signing Authority**

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on October 8, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Taylor N. Mattson,**

*Alternate Federal Register Liaison Officer,  
Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR part 9 as set forth below:

### **PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE**

■ 1. The authority citation for part 9 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

■ 2. Amend § 9.21 by revising paragraphs (c)(20)(i) through (iv) to read as follows:

#### **§ 9.21 Schedule of Losses.**

\* \* \* \* \*

(c) \* \* \*

(20) \* \* \*

(i) The amount payable at the 30th consecutive day of ADL loss is \$25,000.

(ii) The amount payable at the 60th consecutive day of ADL loss is an additional \$25,000.

(iii) The amount payable at the 90th consecutive day of ADL loss is an additional \$25,000.

(iv) The amount payable at the 120th consecutive day of ADL loss is an additional \$25,000.

\* \* \* \* \*

[FR Doc. 2025–23682 Filed 12–22–25; 8:45 am]

**BILLING CODE 8320–01–P**

### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Parts 1 and 27**

**[AU Docket No. 25–117; DA 25–1075; FR ID 323537]**

#### **Auction of Advanced Wireless Services (AWS–3) Licenses; Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 113**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final action; requirements and procedures.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) summarizes the procedures, deadlines, and upfront payment and minimum opening bid amounts for the upcoming auction of 200 Advanced Wireless Services licenses for spectrum in the Federal Communications Commission's inventory in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands (AWS–3 bands). This document provides details regarding the procedures, terms, conditions, dates, and deadlines governing participation in Auction 113 bidding, as well as overview of the post-auction application and payment processes.

**DATES:** Applications to participate in Auction 113 must be submitted before 6:00 p.m. Eastern Time (ET) on February 11, 2026. Upfront payments for Auction 113 must be received by 6:00 p.m. ET on April 8, 2026. Bidding in Auction 113 is scheduled to start on June 2, 2026.

**FOR FURTHER INFORMATION CONTACT:**

*General Auction 113 Information:* FCC Auctions Hotline at (888) 225-5322, option two; or (717) 338-2868. *Auction 113 Legal Information:* Valerie Barrish or Yasiman Montgomery at (202) 418-0660. *AWS-3 Bands Licensing Information:* Madelaine Maior at (202) 418-1466 or Jeffery Tignor at (202) 418-0774.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document (*Auction 113 Procedures Public Notice*) in AU Docket No. 25-117; DA 25-1075; adopted and released on December 18, 2025. The complete text of this document, including attachments and any related documents, are available on the Commission's website at <https://docs.fcc.gov/public/attachments/DA-25-1075A1.pdf> or by using the search function for AU Docket No. 25-117, on the Commission's Electronic Comment Filing System (ECFS) web page at [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs). To request materials in accessible formats for people with disabilities, send an email to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or by call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

## I. General Information

### A. Introduction

In the *Auction 113 Procedures Public Notice*, the Office of Economics and Analytics (OEA), jointly with the Wireless Telecommunications Bureau (WTB), establishes the procedures to be used for Auction 113, the auction of 200 Advanced Wireless Services licenses for spectrum in the Commission's inventory in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands (collectively, the "AWS-3" bands). Auction 113, which marks the Federal Communications Commission's (Commission) first auction since its authority to use competitive bidding lapsed in 2023, will bring unused, valuable 5G-ready spectrum to market, and proceeds will fund the Commission's ongoing efforts to protect American networks from untrustworthy and insecure foreign equipment.

Bidding in Auction 113 is scheduled to commence on June 2, 2026. Auction 113 will be conducted using an ascending clock auction with a supply of one in each category of frequency-specific channel blocks, referred to as

the "clock-1" auction format. The *Auction 113 Procedures Public Notice* provides details regarding the procedures, terms, conditions, dates, and deadlines governing participation in Auction 113 bidding, as well as an overview of the post-auction application and payment processes.

### B. Background and Relevant Authority

The Commission is offering licenses in Auction 113 pursuant to the Spectrum and Secure Technology and Innovation Act of 2024 (Spectrum and Secure Technology and Innovation Act). The Spectrum and Secure Technology and Innovation Act directs the Commission to initiate a system of competitive bidding under 47 U.S.C. 309(j) to grant licenses for spectrum in its inventory in the AWS-3 bands as of December 23, 2024. See Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Public Law 118-159, Div. E, Title LIV, §§ 5401-5405, § 5403. Auction proceeds will support the Commission's Supply Chain Reimbursement Program, which implements the Secure and Trusted Communications Networks Act of 2019 by reimbursing eligible advanced communications service providers for their costs to remove, replace, and dispose of Huawei Technologies Company or ZTE Corporation equipment and services obtained on or before June 30, 2020.

On March 11, 2025, in accordance with 47 U.S.C. 309(j)(3), OEA and WTB released the *Auction 113 Comment Public Notice*, 90 FR 13117 (March 20, 2025), seeking comment on certain competitive bidding and other various procedures to be used in Auction 113. Ten parties filed comments in response to the *Auction 113 Comment Public Notice*, and six parties filed reply comments.

One commenter recommends that funds from spectrum auctions and licenses be strategically and primarily directed towards expanding rural Tribal cellular services and communications infrastructure support on Tribal lands rather than for incumbent reimbursement. No parties commented on this recommendation. Even if this recommendation did not conflict with Congress's express direction for the Auction 113 proceeds, the use of auction proceeds is outside the scope of this proceeding on auction procedures as well as outside the scope of OEA's and WTB's delegated authority.

The Commission's rules and decisions provide the underlying authority for the procedures OEA and WTB adopt for Auction 113. As specified in 47 CFR

27.1105, any auction of licenses for spectrum in the AWS-3 band is to be governed by the bidding procedures set forth in 47 CFR part 1, subpart Q. The Commission has also adopted rules regarding the AWS-3 bands, as well as the licensing and operating rules that are applicable to all 47 CFR part 27 services. See *2014 AWS-3 Report and Order*, 79 FR 32366 (June 4, 2014). On July 24, 2025, the Commission adopted the *2025 AWS-3 Report and Order*, 90 FR 36385 (August 4, 2025), in which it updated the designated entity provisions of the 47 CFR part 27 rules that had applied to the Commission's first auction of AWS-3 spectrum in 2014. One commenter requests that OEA and WTB adopt an accelerated two-year buildout deadline for Auction 113 winning bidders because it claims that doing so will favor bidders with the financial capacity, operational readiness, and technical sophistication to promptly deploy service as well as discourage "speculative bidding." Four commenters oppose this request. The Commission adopted buildout rules for the AWS-3 bands in the *2014 AWS-3 Report and Order*, and any amendments to those rules require a rulemaking proceeding and cannot be made in the context of establishing the procedures for Auction 113 because such action is outside the scope of OEA's and WTB's delegated authority.

Prospective applicants should familiarize themselves with the 47 CFR part 1, subpart Q rules, including amendments and clarifications thereto, as well as Commission decisions regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. In addition, applicants must be thoroughly familiar with the procedures, terms, and conditions contained in the *Auction 113 Procedures Public Notice* and any future public notices that may be released in this proceeding.

The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. OEA and WTB may amend or supplement the information contained in their public notices at any time, and may issue public notices to convey any new or supplemental information that may generally apply to applicants. Pursuant to the Commission's rules, OEA and WTB also retain the authority to implement further procedures during the course of this auction. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to Auction 113.

### C. Description of Licenses To Be Offered in Auction 113

The AWS-3 spectrum available in Auction 113 will be licensed on a geographic area basis. Of the 200 licenses offered in Auction 113, the 48 licenses located in the A1 block (1695–1700 MHz), B1 block (1700–1710 MHz), H block (1760–1765/2160–2165), I block (1765–1770/2165–2170), and J block (1770–1780 MHz/2170–2180 MHz) are based on Economic Areas (EAs) and the 152 located in the G block (1755–1760/2155–2160) are based on Cellular Market Areas (CMAs). The AWS-3 frequencies will be licensed in five and ten megahertz blocks, with each license having a total bandwidth of five, ten, or twenty megahertz. The list of licenses to be offered in Auction 113 is available in the Attachment A file on the Auction

113 website at [www.fcc.gov/auction/113](http://www.fcc.gov/auction/113).

One commenter requests that Block G be redefined using county level geographic areas for Auction 113, rather than on a CMA basis, as specified in 47 CFR part 27. However, implementing such a change would require an amendment to the Commission's part 27 rules that must be adopted in a rulemaking proceeding. A Commission rule cannot be amended in the context of this proceeding establishing the procedures for Auction 113 because such action is outside the scope of OEA's and WTB's delegated authority.

OEA and WTB did not seek comment on establishing a Tribal licensing window for AWS-3 spectrum inventory in the *Auction 113 Comment Public Notice*, however five parties commented on this topic. The Commission declined in the *2025 AWS-3 Report and Order* to

implement a Tribal licensing window for Auction 113, and has therefore resolved this issue.

The 1695–1710 MHz band will be licensed in an unpaired configuration for low-power mobile transmit (*i.e.*, uplink) operations. The 1755–1780 MHz band will be licensed paired with the 2155–2180 MHz band, with the 1755–1780 MHz band authorized for low-power mobile transmit (*i.e.*, uplink) operations and the 2155–2180 MHz band authorized for base station and fixed (*i.e.*, downlink) operations.

Figure 1 in the *Auction 113 Comment Public Notice* shows the band plan for the 1695–1710 MHz band. Figure 2 in the *Auction 113 Comment Public Notice* shows the band plans for the 1755–1780 MHz and 2155–2180 MHz bands. Table 1 contains summary information regarding the AWS-3 licenses available in Auction 113:

TABLE 1—AWS-3 LICENSE SUMMARY  
[Auction 113]

Block	Frequencies (MHz)	Total bandwidth (MHz)	Pairing	Geographic area type	Number of licenses
A1 .....	1695–1700 MHz .....	5	unpaired .....	EA	1
B1 .....	1700–1710 MHz .....	10	unpaired .....	EA	1
G .....	1755–1760/2155–2160 MHz .....	10	2 × 5 MHz .....	CMA	152
H .....	1760–1765/2160–2165 MHz .....	10	2 × 5 MHz .....	EA	14
I .....	1765–1770/2165–2170 MHz .....	10	2 × 5 MHz .....	EA	29
J .....	1770–1780/2170–2180 MHz .....	20	2 × 10 MHz .....	EA	3

Each potential bidder is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the potential uses of a license that it may seek in Auction 113. In addition to the typical due diligence considerations that the Commission encourages of bidders in all auctions, OEA and WTB call particular attention in Auction 113 to the incumbency issues in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands and protection of Federal and non-Federal incumbent operations described herein. Each applicant should closely follow releases from the Commission concerning these issues and consider carefully the technical and economic implications for commercial use of the AWS-3 band. The Commission makes no representations or warranties about the use of this spectrum for particular services, or about the information in Commission databases that is furnished by outside parties.

### D. Incumbency Issues

The AWS-3 bands are currently being used for a variety of government and

non-government services. In the *2014 AWS-3 Report and Order*, the Commission allocated the 1695–1710 MHz band for non-Federal fixed and mobile (except aeronautical mobile) commercial use and the 1755–1780 MHz band for non-Federal fixed and mobile commercial use. Licenses in the 1695–1710 MHz band are being made available on a shared basis with incumbent Federal meteorological-satellite (MetSat) data users. The Commission adopted twenty-seven Protection Zones for the 1695–1710 MHz band in the *2014 AWS-3 Report and Order*, and the forty-seven Federal earth stations located in these Protection Zones will operate on a co-equal, primary basis with commercial AWS-3 licensees. All other Federal earth stations operate on a secondary basis. In order to facilitate coordination, uplink/mobile transmit devices in the 1695–1710 MHz band must be under the control of, or associated with, a base station as a means to facilitate shared use of the band and prevent interference to Federal operations.

Licenses in the 1755–1780 MHz band are being made available on a shared

basis with a limited number of Federal incumbents indefinitely, and some Federal systems that have or will over time relocate out of the band. The Federal systems located in the Protection Zones adopted by the Commission for the 1755–1780 MHz band in the *2014 AWS-3 Report and Order* will operate on a co-equal, primary basis with commercial AWS licensees. The Federal systems that will relocate from the band pursuant to an approved transition plan will operate on a primary basis until they are reaccommodated. In order to facilitate coordination, uplink/mobile transmit devices in the 1755–1780 MHz band must be under the control of, or associated with, a base station as a means to facilitate shared use of the band and prevent interference to Federal operations. NTIA issues annual reports on the status of the transitions of spectrum in the 1695–1710 MHz and 1755–1780 MHz bands. *See, e.g.*, <https://www.ntia.doc.gov/report/2024/2023-commercial-spectrum-enhancement-act-csea-report>. *See also* <https://www.ntia.doc.gov/category/aws-3-transition>.

Licenses to operate in the 1695–1710 MHz and 1755–1780 MHz bands are subject to the condition that the licensee must not cause harmful interference to an incumbent Federal entity relocating from these bands under an approved Transition Plan. This condition remains in effect until the National Telecommunications and Information Administration (NTIA) terminates the applicable authorization of the incumbent Federal entity. Although this license condition does not apply to the permanent sharing scenario, the Commission's rules require successful coordination to avoid causing harmful interference to these Federal incumbents. In addition, AWS–3 licensees in the 1755–1780 MHz band must agree to accept interference from incumbent Federal users while they remain authorized to operate in the band. The 2155–2180 MHz band is already allocated for exclusive non-Federal, commercial use. Although no Federal users are currently licensed or operating in the 2155–2180 MHz band, AWS–3 licensees may have to protect or relocate and/or share in the cost of relocating non-Federal incumbent Fixed Microwave and Broadband Radio Service licensees in the band.

AWS–3 licensees in the 1695–1710 MHz and 1755–1780 MHz bands are required to successfully coordinate with Federal incumbent users in these bands prior to operating in designated protection zones. The *2014 AWS–3 Report and Order* established that 1695–1710 MHz licensees operating at certain power levels are required to coordinate with Federal incumbents in those protection zones, and higher-powered operations would generally require nationwide coordination. Similarly, operations in the 1755–1780 MHz band are subject to successful coordination with Federal incumbents in the protection zones adopted for that band, with the default coordination zone being nationwide. Prior to commencing operations in the 1755–1780 MHz band, an AWS–3 licensee must reach a coordination arrangement on an operator-to-operator basis with each Federal agency that has an assignment with United States and Possessions authority. The *FCC/NTIA Coordination Procedures Public Notice*, 79 FR 54710 (September 12, 2014), contains various refinements to the previously-defined protection zones for each of these bands. The *FCC/NTIA Coordination Procedures Public Notice* also provides information and guidance on the overall coordination process for these bands, as contemplated by the *2014 AWS–3 Report and Order*, including informal

pre-coordination discussion and the formal process of submitting coordination requests to, and receiving responses from, relevant Federal agencies. OEA and WTB encourage each potential applicant to carefully review these coordination requirements and the policies and procedures adopted by the Commission to implement them, and to consider the impact of those requirements and policies on the potential applicant's business plans.

One commenter expresses opposition to Federal spectrum sharing and coordination requirements for the AWS–3 bands because he contends that they create challenges for bidders and could deter participation or lead to underutilized spectrum. These arguments are outside the scope of this proceeding, and as such, OEA and WTB do not address them. The Commission adopted rules for the spectrum sharing and coordination requirements for the AWS–3 bands in the *2014 AWS–3 Report and Order*. Amendments to those rules require a rulemaking proceeding and cannot be adopted in the context of establishing the procedures for Auction 113 because such action is outside the scope of OEA's and WTB's delegated authority.

#### E. Auction Specifics

##### 1. Auction Title and Start Date

The auction of licenses for spectrum in the Commission's inventory in the AWS–3 bands will be referred to as "Auction 113." Bidding in Auction 113 will begin on June 2, 2026. The initial schedule for bidding rounds in Auction 113 will be announced by public notice at least one week before bidding begins. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

##### 2. Auction Dates and Deadlines

The following pre-bidding dates and deadlines apply to Auction 113:

Auction Application System Publicly

Available: Expected January 7, 2026  
Auction Application Tutorial Available (via internet): No later than January 12, 2026

Short-Form Application (FCC Form 175) Filing Window Opens: January 26, 2026, 12:00 p.m. Eastern Time (ET)

Short-Form Application (FCC Form 175) Filing Window Deadline: February 11, 2026, 6:00 p.m. ET

Upfront Payments (via wire transfer): April 8, 2026, 6:00 p.m. ET

Bidding Tutorial Available (via internet): No later than May 1, 2026  
Mock Auction: May 29, 2026

Bidding Begins in Auction 113: June 2, 2026

##### 3. Auction Delay, Suspension, or Cancellation

OEA and WTB adopt their proposal that at any time before or during the bidding process, OEA, in conjunction with WTB, may delay, suspend, or cancel bidding in Auction 113 in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. This approach has proven effective in resolving exigent circumstances in previous auctions, and OEA and WTB find no reason to depart from it here. OEA will notify participants of any such delay, suspension, or cancellation by public notice and/or through the FCC Auction Bidding System's (bidding system) announcement function. If the bidding is delayed or suspended, then OEA may, in its sole discretion, elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. OEA and WTB emphasize that they will exercise the authority to delay, suspend, or cancel bidding in Auction 113 solely at their discretion.

##### 4. Requirements for Participation

Those wishing to participate in Auction 113 must:

- Submit a short-form application (FCC Form 175) electronically prior to 6:00 p.m. ET on February 11, 2026, following the electronic filing procedures and other instructions set forth in the *Auction 113 Procedures Public Notice* and in the FCC Form 175 Instructions.

- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET on April 8, 2026, following the procedures and instructions set forth in the *Auction 113 Procedures Public Notice*.

- Comply with all provisions outlined in the *Auction 113 Procedures Public Notice* and applicable Commission rules.

#### F. Educational Materials

Before the opening of the short-form filing window for Auction 113, detailed educational information will be provided in various formats to potential participants on the Auction 113 web page. Specifically, OEA will provide various materials on the pre-bidding processes in advance of the opening of the short-form application window, beginning with the release of step-by-

step instructions for completing the FCC Form 175 in the FCC's Auction Application System (AAS), which is the Commission's newly developed system that will be used for the first time in Auction 113. These materials will be available in the Education section on the Auction 113 website at [www.fcc.gov/auction/113](http://www.fcc.gov/auction/113). In addition, OEA will provide an online application procedures tutorial for the auction, covering information on pre-bidding preparation, completing short-form applications, and the application review process. Applicants should carefully review both the Auction 113 application tutorial and the FCC Form 175 filing instructions, paying close attention to any departures from previous application processes as a result of the use of the new AAS for Auction 113.

In advance of the start of the mock auction, OEA will provide educational materials on the bidding procedures for Auction 113, including a user guide for the bidding system, bidding system file formats, and an online bidding procedures tutorial. These materials will provide detailed information on bidding features specific to the ascending clock auction format, including intra-round bidding and proxy bids. OEA and WTB recognize the importance of these materials to applicants' and bidders' comprehension of the bidding procedures OEA and WTB adopt herein. Accordingly, the educational materials will be released as soon as reasonably possible to provide potential applicants and bidders with time to understand them and ask questions of Commission staff before bidding begins.

OEA and WTB believe that parties interested in participating in Auction 113 will find the interactive, online tutorials an efficient and effective way to further their understanding of the application and bidding processes. The online tutorials will allow viewers to navigate the presentation outline, review written notes, and listen to audio of the notes. Additional features of these web-based tools include links to auction-specific Commission releases, email links for contacting Commission staff, and screen shots of the online application and bidding systems. The online tutorials will be accessible in the Education section on the Auction 113 website at [www.fcc.gov/auction/113](http://www.fcc.gov/auction/113). Once posted, the tutorials will remain continuously accessible.

One commenter advocates for additional educational support in the form of personalized and interactive tools for less experienced participants, claiming that the educational resources the Commission makes available to participants are often too generalized for

bidders to apply to their particular circumstances. The Commission currently offers a wide variety of educational materials, demonstrations, educational opportunities, and other information and resources to assist prospective applicants and bidders with understanding the FCC's auction application system and the bidding system. Moreover, individual prospective applicants and bidders can address specific questions to Commission staff well in advance of all auction deadlines. As a result, OEA and WTB conclude that the added benefit, if any, of developing personalized and interactive educational tools in time for Auction 113 is outweighed by the time and expense that Commission would incur to customize such resources.

## II. Pre-Bidding Activities and Considerations

### A. Due Diligence

OEA and WTB remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the licenses that it is seeking in Auction 113 and that it is required to certify, under penalty of perjury, that it has read the *Auction 113 Procedures Public Notice* and has familiarized itself with the auction procedures and the service rules for the AWS-3 bands. The Commission makes no representations or warranties about the use of this spectrum or these licenses for particular services. Each applicant should be aware that a Commission auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success.

An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, OEA and WTB encourage each potential bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 113 license, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. OEA and WTB urge each applicant to inspect any prospective

sites for communications facilities located in, or near, the geographic area for which it plans to bid, confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and any other environmental statutes that may apply.

In August 2025, the Commission released the *Modernizing the Commission's National Environmental Policy Act Rules NPRM*, 90 FR 40295 (August 19, 2025), to consider updates to its rules implementing NEPA. Potential bidders in Auction 113 should be mindful that if the Commission amends its NEPA rules, AWS-3 licensees will be subject to the amended rules.

OEA and WTB also encourage each applicant in Auction 113 to continue to conduct its own research throughout the auction in order to determine the existence of pending or future administrative or judicial proceedings that might affect its decision on continued participation in the auction. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on licenses available in an auction. The due diligence considerations mentioned in the *Auction 113 Procedures Public Notice* do not constitute an exhaustive list of steps that should be undertaken prior to participating in Auction 113. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests. For example, applicants should pay particular attention to the requirements presented by the temporary and indefinite sharing of portions of the AWS-3 bands by incumbent Federal users and AWS-3 licensees, which may vary by geography and frequency. The *FCC/NTIA Coordination Procedures Public Notice* contains additional information regarding the extent of sharing in the AWS-3 bands, refinements to the protection zones adopted in the *2014 AWS-3 Report and Order*, and information and guidance on the overall coordination process between commercial and Federal users. OEA and WTB expect that the information in both the *FCC/NTIA Coordination Procedures Public Notice* and federal agencies' approved transition plans will be material to an applicant's potential participation in Auction 113. Therefore, OEA and WTB strongly encourage each applicant to closely review these materials, as well as future releases from

the Commission and NTIA concerning these issues, and to carefully consider the technical and economic implications for commercial use of the AWS-3 bands.

Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the licenses available in Auction 113. Each potential bidder is responsible for undertaking research to ensure that any licenses won in the auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

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, it must 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 its databases.

#### B. Licensing Considerations

In addition to the incumbency issues discussed in the *Auction 113 Procedures Public Notice*, potential bidders should be aware of the following licensing considerations concerning the use of the AWS-3 frequencies they acquire in Auction 113.

##### 1. International Coordination

Potential bidders seeking licenses for geographic areas adjacent to the Canadian and Mexican borders should be aware that the use of the AWS-3 frequencies they acquire in Auction 113 are subject to current and future agreements with the governments of Canada and Mexico.

The Commission routinely works with the United States Department of State and Canadian and Mexican government officials to ensure the efficient use of the spectrum as well as interference-free operations in the border areas near Canada and Mexico. Until such time as any adjusted agreements, as needed, between the

United States, Mexico, and/or Canada can be agreed to, operations in the AWS-3 bands must not cause harmful interference across the border, consistent with the terms of the agreements currently in force.

##### 2. Environmental Review Requirements

Licensees must comply with the Commission's rules for environmental review under the NEPA, the NHPA, and any other environmental statutes that may apply. Licensees and other applicants that propose to build certain types of communications facilities for licensed service must follow Commission procedures implementing obligations under NEPA and NHPA prior to constructing the facilities. Under NEPA, a licensee or applicant must assess if certain environmentally sensitive conditions specified in the Commission's rules are relevant to the proposed facilities, and prepare an environmental assessment when applicable. If an environmental assessment is required, then facilities may not be constructed until environmental processing is completed. Under NHPA, a licensee or applicant must follow the procedures in 47 CFR 1.1320, as well as the *Nationwide Programmatic Agreement for Collocation of Wireless Antennas* and the *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process* (see 47 CFR pt. 1, Appendices B and C). Compliance with section 106 of the NHPA requires Tribal consultation, and if construction of the communications facilities would have adverse effects on historic or Tribally significant properties, an environmental assessment must be prepared.

##### 3. Mobile Spectrum Holdings

OEA and WTB remind bidders of the Commission's mobile spectrum holdings policies applicable to the AWS-3 band. Specifically, the Commission did not impose a pre-auction bright-line limit on acquisitions of the AWS-3 band. The Commission also determined that it would perform case-by-case review of proposed secondary market transactions once AWS-3 was found suitable and available for the provision of mobile telephony/broadband services. All 65 megahertz of AWS-3 spectrum have been found suitable and available and are currently included in the spectrum screen.

##### 4. Quiet Zones

AWS-3 licensees must individually apply for and receive a separate license for each transmitter if the proposed operation will affect the radio quiet zones set forth in the Commission's rules.

*C. Short-Form Applications: Due Before 6:00 p.m. ET on February 11, 2026*

In order to be eligible to bid in Auction 113, an applicant must first follow the procedures to submit a short-form application (FCC Form 175) electronically via the FCC's Auction Application Portal, following the instructions set forth in the FCC Form 175 Instructions. The short-form application will become available with the opening of the initial filing window and must be submitted prior to 6:00 p.m. ET on February 11, 2026. Late applications will not be accepted. No application fee is required for short-form applications. However, in *Amendment of the Schedule of Application Fees*, 86 FR 15026 (March 19, 2021), the Commission adopted a long-form application filing fee that includes an amount to recover costs for processing the short-form application, and each Auction 113 winning bidder must submit the filing fee prescribed in 47 CFR 1.1102 with each separate long-form application.

Applications may be filed at any time beginning at 12:00 p.m. ET on January 26, 2026, until the filing window closes at 6:00 p.m. ET on February 11, 2026. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the initial filing deadline on February 11, 2026.

An applicant must always click on the CERTIFY & SUBMIT button on the *Certify & Submit* screen to successfully submit its FCC Form 175 and any modifications; otherwise, the application or changes to the application will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 175 is provided in the FCC Form 175 Instructions. Applicants requiring technical assistance should contact FCC Auctions Technical Support using the contact information provided in the *Auction 113 Procedures Public Notice*. In order to provide better service to the public, all calls to Technical Support are recorded.

#### D. Application Processing and Minor Modifications

##### 1. Public Notice of Applicants' Initial Application Status and Opportunity for Minor Modifications

After the deadline for filing auction applications, the Commission will process all timely submitted applications to determine whether each applicant has complied with the application requirements and provided all information concerning its qualifications for bidding. OEA will issue a public notice with applicants' initial application status, identifying: (1) those that are complete; and (2) those that are incomplete or deficient because of defects that may be corrected. The public notice will include the deadline for resubmitting corrected applications and an electronic copy will be sent by email to the contact address listed in the FCC Form 175 for each applicant. In addition, each applicant with an incomplete application will be sent information on the nature of the deficiencies in its application, along with the name and contact information of a Commission staff member who can answer questions specific to the application.

After the initial application filing deadline on February 11, 2026, applicants can make only minor modifications to their applications. Minor amendments include any changes that are not major, such as: the deletion or addition of authorized bidders (to a maximum of three); revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person; correcting typographical errors; and supplying or correcting information as requested to support the certifications made in the application. Major modifications (*e.g.*, change of license selection, change in ownership that would constitute an assignment or transfer of control of the applicant, change in the required certifications, change in applicant's legal classification that results in a change in control, or change in claimed eligibility for a higher percentage of bidding credit) will not be permitted. If an amendment reporting changes is a "major amendment," as described in 47 CFR 1.2105(b)(2), the major amendment will not be accepted and may result in the dismissal of the application. After the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure any deficiencies in its application or provide any additional information that may affect Commission staff's ultimate determination of whether and to what extent the applicant is qualified to participate in

Auction 113 and whether the applicant may be eligible to pursue any bidding credit claim.

Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the applicant's FCC Form 175, unless the applicant's certifying official or contact person notifies Commission staff in writing that another representative is authorized to speak on the applicant's behalf. Authorizations may be sent by email to [auction113@fcc.gov](mailto:auction113@fcc.gov).

##### 2. Public Notice of Applicants' Final Application Status After Upfront Payment Deadline

After Commission staff reviews resubmitted applications and upfront payments, OEA will release a *Qualified Bidders Public Notice* identifying applicants that have become qualified bidders for the auction. The *Qualified Bidders Public Notice* will be issued before bidding in the auction begins. Qualified bidders are those applicants with submitted FCC Form 175 applications that are deemed timely filed and complete and that have made a timely and sufficient upfront payment.

#### E. Upfront Payments

In order to be eligible to bid in Auction 113, a sufficient upfront payment and a complete and accurate FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be submitted before 6:00 p.m. ET on April 8, 2026. After completing its short-form application, an applicant will have access to an electronic blank version of the FCC Form 159. An accurate and complete FCC Form 159 must accompany each payment. Proper completion of this form is critical to ensuring correct crediting of upfront payments. Payers are responsible for ensuring that all information entered on the FCC Form 159, including payment amounts, is accurate. Instructions for completing FCC Form 159 for Auction 113 are provided below.

##### 1. Making Upfront Payments by Wire Transfer for Auction 113

All upfront payments for Auction 113 must be transmitted by electronic wire transfer directly from a bank or other financial institution to the proper account at the U.S. Treasury. Wire transfer payments for Auction 113 must be received before 6:00 p.m. ET on April 8, 2026. No other payment method is acceptable. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules and other specific bank wire transfer requirements, such as an in-person written request before a specified

time of day) with their bankers several days before they plan to make the wire transfer, and must allow sufficient time for the transfer to be initiated and completed before the deadline. The following information will be needed:  
ABA Routing Number: 021030004  
Receiving Bank: TREAS NYC, 33 Liberty Street, New York, NY 10045  
BENEFICIARY: FCC, 45 L Street NE, 3rd Floor, Washington, DC 20554  
ACCOUNT NUMBER: 827000001001  
Originating Bank Information (OBI Field): (Skip one space between each information item)

"AUCTIONPAY"

##### APPLICANT FCC REGISTRATION

NUMBER (FRN): (use the same FRN as used on the applicant's FCC Form 159, block 21)

PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "U113")

**Note:** The beneficiary account number (BNF Account Number) is specific to the upfront payments for Auction 113. Do not use a BNF Account Number from a previous auction.

At least one hour before placing the order for the wire transfer (but on the same business day), applicants must print and fax a completed FCC Form 159 (Revised 2/03) to the FCC at (202) 418-2843. Alternatively, the completed form can be scanned and sent as an attachment to an email to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov). On the fax cover sheet or in the email subject header, write "Wire Transfer—Auction Payment for Auction 113." To meet the upfront payment deadline, an applicant's payment must be credited to the Commission's account for Auction 113 before the deadline.

Each applicant is responsible for ensuring the timely submission of its upfront payment and for timely filing an accurate and complete FCC Form 159. An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer. Each applicant also is responsible for obtaining confirmation from its financial institution that its wire transfer to the U.S. Treasury was successful and from Commission staff that its upfront payment was timely received and that it was deposited into the proper account. As a regulatory requirement, the U.S. Treasury screens all payments from all financial institutions before deposits are made



available to specified accounts. If wires are suspended, the U.S. Treasury may direct questions regarding any transfer to the financial institution initiating the wire. Each applicant must take care to assure that any questions directed to its financial institution(s) are addressed promptly. To receive confirmation from Commission staff, contact Scott Radcliffe of the Office of Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418-7518 or Theresa Meeks at (202) 418-2945.

Please note the following information regarding upfront payments:

- All payments must be made in U.S. dollars.

- All payments must be made by wire transfer.

- Upfront payments for Auction 113 go to an account number different from the accounts used in previous FCC auctions.

Failure to deliver a sufficient upfront payment as instructed herein by the upfront payment deadline will result in dismissal of the short-form application and disqualification from participation in the auction.

## 2. Completing and Submitting FCC Form 159

The following information supplements the standard instructions for FCC Form 159 (Revised 2/03) and is

provided to help ensure the correct completion of FCC Form 159 for upfront payments for Auction 113. Applicants need to complete FCC Form 159 carefully because:

- Mistakes may affect bidding eligibility; and
- Lack of consistency between information provided in FCC Form 159 (Revised 2/03), FCC Form 175, long-form application (FCC Form 601), and correspondence about an application may cause processing delays.

Therefore, appropriate cross-references between the FCC Form 159 Remittance Advice and the short-form application (FCC Form 175) are described in the following chart:

Block No.	Required information
1 .....	LOCKBOX #—Leave Blank.
2 .....	Payer Name—Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same name as in FCC Form 175.
3 .....	Total Amount Paid—Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/03).
4–8 .....	Street Address, City, State, ZIP Code—Enter the street mailing address (not post office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9 .....	Daytime Telephone Number—Enter the telephone number of a person knowledgeable about this upfront payment.
10 .....	Country Code—For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11 .....	Payer FRN—Enter the payer's 10-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
21 .....	Applicant FRN (Complete only if applicant is different than payer)—Enter the applicant's 10-digit FRN registered in CORES.
24A .....	Payment Type Code—Enter "U113".
25A .....	Quantity—Enter the number "1".
26A .....	Fee Due—Amount of Upfront Payment.
27A .....	Total Fee—Will be the same amount as 26A.
28A .....	FCC Code 1—Enter the number "113" (indicating Auction 113).

### Notes:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If the applicant is different from the payer, complete blocks 13 through 21 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- No signature is required on FCC Form 159 for auction payments.
- Since credit card payments will not be accepted for upfront payments for an auction, leave Section E blank.

### 3. Upfront Payments and Bidding Eligibility

An upfront payment is a refundable deposit made by each applicant seeking to participate in bidding to establish its eligibility to bid on licenses. Upfront payments that are related to the inventory of licenses being auctioned protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of bidding.

Applicants that are former defaulters must pay upfront payments 50% greater

than non-former defaulters. For purposes of classification as a former defaulter or a former delinquent, defaults and delinquencies of the applicant itself and its controlling interests are included.

An applicant must make an upfront payment sufficient to obtain bidding eligibility on the licenses on which it will bid. OEA and WTB adopt the proposals in the *Auction 113 Comment Public Notice* to set upfront payments based on the MHz-pops of each license offered in the auction and to determine an applicant's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids in any single round, based on the amount of the upfront payment. In order to bid for a license, qualified bidders 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 license in a market selected on its FCC Form 175 for Auction 113, or else the applicant will not become qualified to

participate in the auction. The total upfront payment does not affect the total dollar amount the bidder may bid.

The Commission has authority to determine appropriate upfront payments for each license being auctioned, taking into account such factors as the efficiency of the auction process and the potential value of similar licenses. In the *Auction 113 Comment Public Notice*, OEA and WTB proposed to base upfront payments for the paired licenses on dollars per MHz-pop in three population tiers: \$0.005 per MHz-pop for the paired licenses in areas with a population of less than 300,000, \$0.01 per MHz-pop for the paired licenses in areas with a population of at least 300,000 and less than 1,000,000, \$0.025 per MHz-pop for the paired licenses in areas with a population of at least 1,000,000, and \$0.005 per MHz-pop for the unpaired licenses and sought comment on this proposal. OEA and WTB received no comment on this proposal. OEA and WTB believe that this methodology is appropriate here and therefore adopt it. For all licenses, upfront payments will be subject to a



minimum of \$500 per license. The upfront payment amount per license is set forth in the Attachment A file on the Auction 113 website at [www.fcc.gov/auction/113](http://www.fcc.gov/auction/113).

Additionally, for the reasons set forth in the *Auction 113 Comment Public Notice*, OEA and WTB adopt the proposal to assign each license a specific number of bidding units, equal to one bidding unit per \$100 of the upfront payment, which is necessary for

implementing the activity requirement described in the *Auction 113 Procedures Public Notice*, and facilitates the efficient conduct of the auction. The number of bidding units for a given license is fixed and does not change during the auction as prices change. Thus, in calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to bid 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 bidding units for the 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 ELIGIBILITY

License	Description	Bidding units	Upfront payment
CMA117-G .....	Colorado Springs, CO .....	760	\$76,000
CMA118-G .....	Reading, PA .....	430	43,000

Under the clock-1 format, if a bidder wishes to bid on both of the above licenses in a round, it must have selected both of the markets in which each of these licenses are located on its FCC Form 175 and have purchased at least 1,190 bidding units (760 + 430) of bidding eligibility. If a bidder only wishes to bid on one license, but not both, purchasing 760 bidding units would allow the bidder to bid on either license, but not both at the same time. If the bidder purchased only 430 bidding units, the bidder would have enough eligibility to bid for the license in Reading but not for the one in Colorado Springs.

If an applicant is a former defaulter, it must calculate its upfront payment for the maximum number of licenses on which it plans to bid by multiplying the number of bidding units on which it wishes to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will calculate the number of bidding units a non-former defaulter would get for the upfront payment received, divide that number 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 license, the applicant will not be eligible to bid in Auction 113.

#### F. Auction Registration

All qualified bidders for Auction 113 are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight delivery. 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® tokens that will be required to place bids.

Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder for Auction 113 that has not received this mailing by noon on May 15, 2026, should call the Auctions Hotline at (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all the registration materials.

In the event that a SecurID® token is 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 a replacement. To request a replacement, call the Auction Bidder Line at the telephone number provided in the registration materials or the Auction Hotline at (717) 338-2868.

#### G. Remote Electronic Bidding Via the Bidding System

Bidders will be able to participate in Auction 113 over the internet using the bidding system. In addition, bidders will have the option of placing bids by telephone through a dedicated auction bidder line. 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. The length of a call to place a telephonic bid may vary; please allow a minimum of 10 minutes. The toll-free telephone number for the auction bidder line will be provided to qualified bidders prior to the start of bidding in the auction.

Only qualified bidders are permitted to bid. Each authorized bidder must have his or her own SecurID® token, which the Commission will provide at no charge. Each applicant will be issued three SecurID® tokens. A bidder cannot bid without his or her SecurID® token. In order to access the bidding function of the bidding system, bidders must be logged in during the bidding round using the passcode generated by the SecurID® token and a personal identification number (PIN) created by the bidder. For security purposes, the

SecurID® tokens and a telephone number for bidding questions are only mailed to the contact person at the contact address listed on the FCC Form 175. Each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 113. Please note that the SecurID® tokens can be recycled, and the Commission requests that bidders return the tokens to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

The Commission makes no warranties whatsoever and shall not be deemed to have made any warranties, with respect to the bidding system, including any implied warranties of merchantability or fitness for a particular purpose. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of use, revenue, or business information, or any other direct, indirect, or consequential damages) arising out of or relating to the existence, furnishing, functioning, or use of the bidding system. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the bidding system.

To the extent an issue arises with the bidding system itself, the Commission will take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the bidding system or attributable to a bidder, including, but

not limited to, a bidder's hardware, software, or internet access problem that prevents the bidder from submitting a bid prior to the end of a round, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Similarly, if an issue arises due to bidder error using the bidding system, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Accordingly, after the close of a bidding round, the results of bid processing will not be altered absent evidence of any failure in the bidding system.

#### *H. Mock Auction*

All qualified bidders will be eligible to participate in a mock auction. The mock auction, which will begin on May 29, 2026, will enable qualified bidders to become familiar with the bidding system and to practice submitting bids prior to the auction. OEA and WTB recommend that all qualified bidders, including all their authorized bidders, participate to assure that they can log in to the bidding system and gain experience with the bidding procedures. Participating in the mock auction may reduce the likelihood of a bidder making a mistake during the auction. Details regarding the mock auction will be announced in the *Qualified Bidders Public Notice* for Auction 113.

#### *I. Fraud Alert*

As is the case with many business investment opportunities, some unscrupulous parties may attempt to use Auction 113 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service, Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or

quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the FCC, as well as the FTC and SEC. Additional sources of information for potential bidders and investors may be obtained from the following sources:

- the FCC's Consumer Call Center at (888) 225-5322 or by visiting [www.fcc.gov/general/frauds-scams-and-alerts-guides](http://www.fcc.gov/general/frauds-scams-and-alerts-guides).
- the FTC at (877) FTC-HELP ((877) 382-4357) or by visiting <https://consumer.ftc.gov/>.
- the SEC at (800) 732-0330 or by visiting <https://www.investor.gov/>.

Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Consumer League's Fraud Center at <https://fraud.org/> or (202) 835-3323, Ext. 815.

### **III. Short-Form Application Contents and Certifications**

#### *A. General Information Regarding Short-Form Applications*

An application to participate in Auction 113, referred to as a short-form application or FCC Form 175, provides information concerning the applicant's legal, technical, and/or financial qualifications to participate in a Commission auction for spectrum licenses or permits. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, a party seeking to participate in Auction 113 must file a short-form application in which it certifies, under penalty of perjury, that it is qualified to participate. Eligibility to participate in Auction 113 is determined based on an applicant's short-form application and certifications and on the applicant's upfront payment. Pursuant to 47 CFR 1.2105, each applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and it must confirm that it is legally, technically, financially, and otherwise qualified to hold a Commission license. An auction applicant's failure to make the required certifications in its short-form application by the applicable filing deadline would render its application unacceptable for filing, its application would be dismissed with prejudice, and it would be ineligible to participate further in the auction. One commenter requests that the Commission "develop

and mandate a Certification of Tribal Spectrum Access for all licensees." No parties commented on this request, and the request is outside the scope of OEA's and WTB's delegated authority.

After bidding closes, in the second phase of the process, each winning bidder in Auction 113 must file a more comprehensive post-auction long-form application (FCC Form 601) for the licenses it wins in the auction, and it must have a complete and accurate ownership disclosure information report (FCC Form 602) on file with the Commission. OEA and WTB remind applicants that being deemed qualified to bid in Auction 113 does not constitute a determination that a party is qualified to hold a Commission license or is eligible for a designated entity bidding credit.

A party seeking to participate in Auction 113 must file an FCC Form 175 electronically via the Auction Application Portal (AAP) in the AAS prior to 6:00 p.m. ET on February 11, 2026, following the procedures prescribed in the FCC Form 175 Instructions. In order to access the AAP within the AAS to create a new auction application for an applicant, or save, edit, view, and/or withdraw an existing application for the applicant, an individual must: (1) have a unique email address associated with an FCC Username account that is associated with the applicant's FCC Registration Number (FRN) in the Commission Registration System (CORES), (2) be granted the appropriate permissions in CORES by an Administrator of that FRN, and (3) be assigned the appropriate Auctions Permissions in the AAP by the Administrator of that FRN. The AAS includes security features that are being implemented for the first time in Auction 113, including the use of multifactor authentication. The Commission expects to make the AAS available to the public for the Administrator(s) for an FRN to assign the appropriate Auctions Permissions in the AAP to each unique FCC Username associated with that FRN on January 7, 2026.

An Auction 113 applicant bears full responsibility for submitting an accurate, complete, and timely short-form application. Pursuant to the Commission's competitive bidding rules, an applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and an applicant must confirm that it is legally, technically, financially, and otherwise qualified to hold a license. If an applicant claims eligibility for a

bidding credit, then the information provided in its FCC Form 175 will be used to determine whether the applicant appears to be eligible for the claimed bidding credit, with the final determination of bidding credit eligibility to occur based on a winning bidder's post-auction long-form application. Each participant in Auction 113 must also certify that it has read the *Auction 113 Procedures Public Notice* and familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the AWS-3 bands. If an Auction 113 applicant fails to make the required certifications in its FCC Form 175 by the filing deadline, then its application will be deemed unacceptable for filing and cannot be corrected after the filing deadline.

An applicant should note that submitting an FCC Form 175 (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant with authority to bind the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submitting 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.

Applicants are cautioned that, because the required information submitted in FCC Form 175 bears on each applicant's qualifications, requests for confidential treatment will not be routinely granted. The Commission generally has held that it may publicly release confidential business information where the party has put that information at issue in a Commission proceeding or where the Commission has identified a compelling public interest in disclosing the information. In this regard, OEA and WTB have previously concluded that information submitted in support of receiving bidding credits in auction proceedings should be made available to the public.

An applicant must designate between one and three individuals as authorized bidders in its FCC Form 175. The Commission's rules prohibit an individual from serving as an authorized bidder for more than one auction applicant.

To access the bidding system, each authorized bidder will be required to have a unique email address associated with an FCC Username account that is associated with the applicant's FRN in CORES. The email address associated

with an FCC Username account is also the FCC Username for that account. If an authorized bidder does not provide an FCC Username that is associated with the applicant's FRN in the applicant's FCC Form 175, that bidder will be unable to place or submit bids. For further details, applicants should refer to the FCC Form 175 Instructions for Auction 113.

No individual or entity may file more than one short-form application or have a controlling interest in more than one short-form application. If a party submits multiple short-form applications for an auction, then only one application may form the basis for that party to become qualified to bid in that auction.

Similarly, and consistent with the Commission's general prohibition on joint bidding agreements, a party generally is permitted to participate in a Commission auction only through a single bidding entity. Accordingly, the filing of applications in Auction 113 by multiple entities controlled by the same individual or set of individuals generally will not be permitted. As noted by the Commission in adopting the prohibition on applications by commonly controlled entities, this rule, in conjunction with the prohibition against joint bidding agreements, protects the competitiveness of the Commission's auctions.

After the initial short-form application filing deadline, Commission staff will review each timely submitted application to determine whether it complies with the application requirements. Following this review, a public notice will be released announcing the status of the submitted applications and establishing an application resubmission filing window, during which an applicant may make minor modifications to its application to address identified deficiencies. To become a qualified bidder, an applicant must have a complete application (*i.e.*, have timely filed an application that is deemed complete after the deadline for correcting any identified deficiencies) and make a timely and sufficient upfront payment. Qualified bidders will be identified by public notice at least 10 days prior to the mock auction.

The *Auction 113 Procedures Public Notice* provides details regarding certain information required to be submitted in the FCC Form 175, however, an applicant should consult the Commission's rules to ensure that, in addition to the materials described in the *Auction 113 Procedures Public Notice*, all required information is included in its short-form application. To the extent the information in the

*Auction 113 Procedures Public Notice* does not address an applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the described disclosure requirements, the applicant should review the educational materials for Auction 113 (see the Education section on the Auction 113 website at [www.fcc.gov/auction/113](http://www.fcc.gov/auction/113)) and use the contact information provided in the *Auction 113 Procedures Public Notice* to consult with Commission staff to better understand the information that it must submit in its short-form application.

#### *B. Certification of Notice of Auction 113 Requirements and Procedures*

For the reasons set forth in the *Auction 113 Comment Public Notice*, OEA and WTB adopt the proposal to require any applicant seeking to participate in Auction 113 to certify in its short-form application, under penalty of perjury, that it has read the *Auction 113 Procedures Public Notice* adopting procedures for Auction 113 and that it has familiarized itself with these procedures and with the requirements for obtaining a license and operating facilities in the AWS-3 bands.

This certification is designed to bolster applicants' efforts to educate themselves about the procedures for auction participation and to ensure that, prior to submitting their short-form applications, applicants understand their obligation to stay abreast of relevant information. Familiarity with the Commission's rules and procedures governing Auction 113 may also help bidders avoid the consequences to them associated with defaults, which also cause harm to other applicants and the public by reducing the efficiency of the auction process and reducing the likelihood that the license will be assigned to the bidder that values it the most. This certification, along with the other certifications required pursuant to 47 CFR 1.2105(a), will promote the submission of applications that meet the Commission's requirements, thereby leading to a more efficient application process.

A substantively similar requirement was instituted for Auctions 110, 108, and 112. This requirement furthers a long-standing policy under which the Commission expressly places a burden upon each applicant to be thoroughly familiar with the procedures, terms, and conditions contained in the relevant *Procedures Public Notice* and any future public notices that may be released in the auction proceeding. While the certification OEA and WTB add refers to information regarding auction procedures and licensing that is

available at the time of certification, potential auction applicants are on notice from the *Auction 113 Procedures Public Notice* that their educational efforts must continue even after their short-form applications are filed. Commission staff routinely makes available detailed educational materials, such as interactive, online tutorials and technical guides, to enhance interested parties' comprehension of the pre-bidding and bidding processes and to help applicants minimize their need to engage outside engineers, legal counsel, or other auction experts.

For these reasons, OEA and WTB will require each Auction 113 applicant to certify as follows in its short-form application:

that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the AWS-3 bands.

An applicant must provide this certification under penalty of perjury, consistent with 47 CFR 1.2105(a). This certification must be provided in addition to the certifications already required under 47 CFR 1.2105. As with the other certifications required in the short-form application, an applicant's failure to make this certification in its FCC Form 175 by the February 11, 2026 short-form filing deadline will render its application unacceptable for filing, and its application will be dismissed with prejudice.

#### *C. Acknowledgement Statement for Auction 113 Applicants*

OEA and WTB adopt their proposal to require each applicant that selects on its short-form application any market in which there is a license in the 1755–1780 MHz band available for bidding to submit as an attachment to its short-form application a signed statement acknowledging that the applicant's operations in the 1755–1780 MHz band may be subject to interference from Federal systems, that the applicant must accept interference from incumbent Federal operations, and that the applicant has considered these risks before submitting any bids for applicable licenses in Auction 113. The specific text that must be included in the required acknowledgement statement is contained in Attachment B to the *Auction 113 Procedures Public Notice*. The acknowledgement statement must be signed by the same individual that signs the application on behalf of the applicant.

#### *D. License Selection*

Auction 113 will offer 200 licenses in 199 markets. An applicant must select all of the markets in which it may want to bid from the list of available markets on its FCC Form 175. One market, EA173, has two licenses available (one in frequency block H and one in frequency block I). An applicant that wishes to bid on either license in that market must select the market (and will be therefore eligible to bid on both licenses, assuming that it otherwise has sufficient bidding eligibility), even if it intends to bid on only one license and not the other. An applicant must carefully review and verify its selections before the FCC Form 175 filing deadline because those selections cannot be changed after the auction application filing deadline. An applicant is not required to place bids on any of the licenses in the markets it selects, but the bidding system will not accept bids for license(s) in a market that the applicant did not select in its FCC Form 175.

When two or more short-form applications are submitted selecting the same market in Auction 113, mutual exclusivity exists for auction purposes as to the license(s) in that market, and those license(s) must be awarded by competitive bidding procedures. Once mutual exclusivity exists for auction purposes, even if only one applicant is qualified to bid for a particular license, that applicant is required to submit a bid in order to obtain the license.

#### *E. Disclosure of Agreements and Bidding Arrangements*

An applicant must provide in its FCC Form 175 a brief description of, and identify each party to, any partnerships, joint ventures, consortia or other agreements, arrangements, or understandings of any kind relating to the licenses being auctioned, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party. In connection with the agreement disclosure requirement, the applicant must certify under penalty of perjury in its FCC Form 175 that it has described, and identified each party to any such agreements, arrangements, or understandings to which it (or any party that controls it or that it controls) is a party. Moreover, since each applicant must maintain the accuracy and completeness of the information in its pending auction application, if it

enters into any agreement relating to the licenses being auctioned after the FCC Form 175 filing deadline, then that agreement is subject to these same disclosure requirements.

For purposes of making the required agreement disclosures on the FCC Form 175, if parties agree in principle on all material terms prior to the application filing deadline, then each party to the agreement that is submitting an auction application must provide a brief description of, and identify the other party or parties to, the agreement on its respective FCC Form 175, even if the agreement has not been reduced to writing. Parties that have not agreed in principle by the FCC Form 175 filing deadline should not describe, or include the names of parties to, the discussions on their applications.

The Commission's rules generally prohibit joint bidding and other arrangements involving auction applicants (including any party that controls or is controlled by such applicants). For purposes of the prohibition, a joint bidding arrangement includes any arrangement relating to the licenses being auctioned that addresses or communicates, directly or indirectly, bidding in the auction, bidding strategies, including arrangements regarding price or the specific licenses on which to bid, and any such arrangement relating to the post-auction market structure.

This prohibition applies to joint bidding arrangements involving two or more nationwide providers, as well as joint bidding arrangements involving a nationwide provider and one or more non-nationwide providers, where at least one party to the arrangement is an applicant for the auction. In the *Updating Part 1 Report and Order*, 80 FR 56764 (September 18, 2015), the Commission stated that entities that qualify as nationwide providers generally would be identified in procedures public notices released before each auction. To that end, in the *Auction 113 Comment Public Notice*, OEA and WTB proposed to identify AT&T, T-Mobile, and Verizon as “nationwide providers” for the purpose of implementing the competitive bidding rules in Auction 113, including 47 CFR 1.2105(c), the rule prohibiting certain communications, which is consistent with the Commission's decisions in recent spectrum auctions and the *2024 Communications Marketplace Report*, FCC 24–136 (released December 31, 2024).

One commenter requests that OEA and WTB also identify EchoStar Corporation (EchoStar), or any bidders “with whom EchoStar has agreements,”

as a “nationwide provider” for purposes of Auction 113, citing the public statements made by DISH Network (DISH) and EchoStar that have referred to DISH’s “nationwide 5G network” and because EchoStar’s Boost Mobile Network touts 99% coverage. OEA and WTB decline to adopt this suggestion for Auction 113. The Commission has historically relied, in part, on the *Communications Marketplace Report* among its justifications for a determination of which entities are considered to be “nationwide providers” for competitive bidding purposes, and the Commission’s most recent report, released in December 2024, did not identify EchoStar as a nationwide provider. In addition, EchoStar’s geographic coverage as reflected on the Commission’s National Broadband Map, is substantially less than that of AT&T, T-Mobile, and Verizon. Moreover, EchoStar’s Boost Mobile is partially a Mobile Virtual Network Operator (MVNO), and its purported “99%” coverage that this commenter refers to is based in part on the nationwide networks of its wholesale providers (e.g., AT&T and T-Mobile). OEA and WTB therefore adopt their proposal to identify only AT&T, T-Mobile, and Verizon as “nationwide providers” for purposes of implementing the competitive bidding rules in Auction 113.

Under certain circumstances, a non-nationwide provider may enter into an agreement to form a consortium or a joint venture (as applicable) that results in a single party applying to participate in an auction. Specifically, a designated entity can participate in one consortium or joint venture in an auction, and non-nationwide providers that are not designated entities may participate in an auction through only one joint venture. A non-nationwide provider may enter into only one agreement to form a consortium or joint venture (as applicable), and such consortium or joint venture shall be the exclusive bidding vehicle for its members in the auction. The general prohibition on joint bidding arrangements excludes certain agreements, including those that are solely operational in nature, as defined in 47 CFR 1.2105(a)(2)(ix)(A)–(C).

To implement the prohibition on joint bidding arrangements, the Commission’s rules require each applicant to certify in its short-form application that it has disclosed any arrangements or understandings of any kind relating to the licenses being auctioned to which it (or any party that controls or is controlled by it) is a party. The applicant must also certify that it

(or any party that controls or is controlled by it) has not entered and will not enter into any arrangement or understanding of any kind relating directly or indirectly to bidding at auction with, among others, any other applicant or a nationwide provider.

Although the Commission’s rules do not prohibit auction applicants from communicating about matters that are within the scope of an excepted agreement that has been disclosed in an FCC Form 175, OEA and WTB remind applicants that certain discussions or exchanges could nonetheless touch upon impermissible subject matters, and that compliance with the Commission’s rules will not insulate a party from enforcement of the antitrust laws.

Applicants should bear in mind that a winning bidder will be required to disclose in its post-auction long-form application, the specific terms, conditions, and parties involved in any agreement relating to the licenses being auctioned into which it had entered prior to the time bidding was completed. This applies to any bidding consortium, joint venture, partnership, or other agreement, arrangement, or understanding of any kind entered into relating to the competitive bidding process, including any agreements relating to the licenses being auctioned that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party.

#### F. Ownership Disclosure Requirements

Each applicant must comply with the applicable part 1 ownership disclosure requirements and provide information required by 47 CFR 1.2105 and 1.2112, and, when applicable, 47 CFR 1.2110. Specifically, in completing FCC Form 175, an applicant must fully disclose information regarding the real party- or parties-in-interest in the applicant or application and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in 47 CFR 1.2105 and 1.2112 and, where applicable, 47 CFR 1.2110. Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

In certain circumstances, an applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed an application to participate in a previous auction in which ownership information was disclosed. If in that previous filing, the

applicant used the same FRN the applicant is using to create its FCC Form 175 for Auction 113, the applicant will have the option to pre-fill the most current ownership information contained in any such filing into certain ownership sections on the applicant’s FCC Form 175, if such information is in an electronic format compatible with FCC Form 175. Applicants who want to take advantage of the pre-fill option are encouraged to submit an FCC Form 602 ownership report or update any ownership information on file with the Commission in an FCC Form 602 ownership report prior to starting a short-form application for Auction 113 to ensure that their most recent ownership information is pre-filled into their short-form application. Each applicant must carefully review any ownership information that has been pre-filled into its FCC Form 175, including any ownership attachments, to confirm that all information supplied on FCC Form 175 is complete and accurate as of the application filing deadline. Any information that needs to be corrected or updated must be changed directly in FCC Form 175.

#### G. Foreign Ownership Disclosure Requirements

47 U.S.C. 310 requires the Commission to review foreign investment in radio station licenses and imposes specific restrictions on who may hold certain types of radio licenses. 47 U.S.C. 310 applies to applications for initial radio licenses, applications for assignments and transfers of control of radio licenses, and spectrum leasing arrangements under the Commission’s secondary market rules. In completing FCC Form 175, an applicant is required to disclose information concerning foreign ownership of the applicant. If an applicant has foreign ownership interests in excess of the applicable limit or benchmark set forth in 47 U.S.C. 310(b), then it may seek to participate in Auction 113 as long as it has filed a petition for declaratory ruling with the Commission prior to the FCC Form 175 filing deadline. An applicant must certify in its FCC Form 175 that, as of the deadline for filing its application to participate in the auction, the applicant either is in compliance with the foreign ownership provisions of 47 U.S.C. 310 or has filed a petition for declaratory ruling requesting Commission approval to exceed the applicable foreign ownership limit or benchmark in 47 U.S.C. 310(b) that is pending before, or has been granted by, the Commission.

### *H. Additional Disclosures for Small Businesses and Rural Service Providers Seeking Bidding Credits*

In Auction 113, designated entity bidding credits will be available to applicants that demonstrate eligibility for a small business or a rural service provider bidding credit and are subsequently winning bidders in the auction. A bidding credit represents an amount by which an eligible small business or rural service provider bidder's overall payment across the licenses won may be discounted, subject to the specified caps on the total bidding credit discount they may receive adopted in the *Auction 113 Procedures Public Notice*. These bidding credits will not be cumulative—an applicant is permitted to request either a small business bidding credit or a rural service provider bidding credit, but not both.

The Commission's rules regarding designated entity bidding credits provide for, among other things: (1) a two-pronged standard for evaluating eligibility for small business benefits, (2) updated gross revenue requirements for determining whether a small business is eligible for a 15% or 25% bidding credit, (3) a bidding credit for eligible rural service providers, and (4) an attribution rule for certain disclosable interest holders of applicants claiming eligibility for bidding credits. An applicant seeking a designated entity bidding credit must disclose in its short-form application additional information demonstrating its eligibility for that bidding credit, and must also certify that it is eligible for the bidding credit it requests in its FCC Form 175.

In addition to the information provided in the *Auction 113 Procedures Public Notice*, each applicant should review carefully the Commission's decisions regarding eligibility for designated entity benefits as well as the part 1 rules. In particular, OEA and WTB remind applicants requesting bidding credits that they should take due account of the requirements of the Commission's rules and implementing orders regarding *de jure* and *de facto* control of such applicants. Nearly all of the spectrum associated with the licenses to be offered in Auction 113 is in the Commission's inventory in connection with two Auction 97 winning bidders having claimed small business bidding credits for which the Commission later determined they were ineligible. Applicants should be mindful that the Commission will closely examine qualifications of all applicant claims of bidding credit eligibility and strictly enforce its

designated entity eligibility requirements.

Moreover, the Commission's rules include a prohibition, which applies to all applicants (whether they seek bidding credits or not), against changes in ownership of the applicant that would constitute an assignment or transfer of control after the initial filing deadline for FCC Form 175. Applicants should not expect to receive any opportunities to revise their ownership structure after the filing of their short- and long-form applications, including making revisions to their agreements or other arrangements with interest holders, lenders, or others in order to address potential concerns relating to compliance with the designated entity bidding credit requirements.

This policy will help to ensure compliance with the Commission's rules applicable to the award of bidding credits prior to the conduct of the auction, which will involve competing bids from those that do and do not seek bidding credits, and thus preserves the integrity of the auction process. OEA and WTB also believe that this will meet the Commission's statutory objectives in awarding licenses through the competitive bidding process.

OEA and WTB did not make any proposals or seek comment in the *Auction 113 Comment Public Notice* on eligibility for bidding credits or the small business bidding credit levels for Auction 113, however, two parties offered comments on this topic, seeking to roll back to the small business definitions and bidding credits and other designated entity rules that had been used in Auction 97 held in 2014. These comments are not addressed in this proceeding because the Commission has already addressed those contentions and determined bidding credit eligibility and the levels of small business bidding credits available in Auction 113 in the *2025 AWS-3 Report and Order*.

#### 1. Small Business Bidding Credit

For Auction 113, bidding credits will be available to eligible small businesses and consortia thereof, subject to the bidding credit caps adopted in the *Auction 113 Procedures Public Notice*. Under the service rules applicable to AWS-3 band licenses to be offered in Auction 113, the two-tiers of bidding credits available are determined as follows:

- A bidder that qualifies as a “small business”—*i.e.*, one with attributed average annual gross revenues that do not exceed \$55 million for the preceding five years—is eligible to receive a 15% discount on its overall payment.

- A bidder that qualifies as a “very small business”—*i.e.*, one with attributed average annual gross revenues that do not exceed \$20 million for the preceding five years—is eligible to receive a 25% discount on its overall payment.

Small business bidding credits are not cumulative; an eligible applicant may receive either the 15% or the 25% bidding credit on its overall payment, but not both. The Commission's unjust enrichment provisions also apply to a winning bidder that uses a bidding credit and subsequently seeks to assign or transfer control of its license within a certain period to an entity not qualifying for at least the same level of small business bidding credit.

Each applicant seeking a small business bidding credit must disclose the gross revenues for the preceding five years for each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. The applicant must also submit an attachment that lists all parties with which the applicant has entered into any spectrum use agreements or arrangements for any licenses that may be won by the applicant in Auction 113. In addition, to the extent that an applicant has an agreement with any disclosable interest holder for the use of more than 25% of the spectrum capacity of any license that may be won in Auction 113, the applicant must disclose the identity and the attributable gross revenues of any such disclosable interest holder. This attribution rule will be applied on a license-by-license basis. As a result, an applicant may be eligible for a bidding credit on some, but not all, of the licenses for which it is bidding in Auction 113. If an applicant is applying as a consortium of small businesses, then the disclosures described in this paragraph must be provided for each consortium member.

#### 2. Rural Service Provider Bidding Credit

An eligible applicant may request a 15% discount on its overall payment using a rural service provider bidding credit, subject to the cap discussed below. To be eligible for a rural service provider bidding credit, an applicant must: (1) be a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (2) serve predominantly rural areas. Rural areas are defined as counties with a population density of 100 or fewer

persons per square mile. An applicant seeking a rural service provider bidding credit must provide the number of subscribers served as of the short-form application deadline. An applicant may count any subscriber as a single subscriber even if that subscriber receives more than one service.

Each applicant seeking a rural service provider bidding credit must disclose the number of its subscribers, along with the number of subscribers of its affiliates, controlling interests, and the affiliates of its controlling interests. The applicant must also submit an attachment that lists all parties with which the applicant has entered into any spectrum use agreements or arrangements for any licenses that may be won by the applicant in Auction 113. In addition, to the extent that an applicant has an agreement with any disclosable interest holder for the use of more than 25% of the spectrum capacity of any license that may be won in Auction 113, the identity and the attributable subscribers of any such disclosable interest holder must be disclosed. Like applicants seeking eligibility for small business bidding credits, eligible rural service providers may also form a consortium. If an applicant is applying as a consortium of rural service providers, then the disclosures described in this paragraph, including the certification, must be provided for each consortium member.

### 3. Attributable Interests

**Controlling Interests and Affiliates.** Pursuant to 47 CFR 1.2110, an applicant's eligibility for bidding credits is determined by attributing the gross revenues (for those seeking small business benefits) or subscribers (for those seeking rural service provider benefits) of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. This information must therefore be disclosed in the short-form application of any auction participant seeking a small business or rural service provider bidding credit. Controlling interests of an applicant include individuals and entities with either *de facto* or *de jure* control of the applicant. Typically, ownership of greater than 50% of an entity's voting stock evidences *de jure* control. *De facto* control is determined on a case-by-case basis based on the totality of the circumstances. The following are some common indicia of *de facto* control:

- the entity constitutes or appoints more than 50% 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; and

- the entity plays an integral role in management decisions.

Additionally, for attribution purposes, officers and directors of an applicant seeking a bidding credit are considered to have a controlling interest in the applicant. Applicants should refer to 47 CFR 1.2110(c)(2) and the FCC Form 175 Instructions to understand how certain interests are calculated in determining control for purposes of attributing gross revenues.

Affiliates of an applicant or controlling interest include an individual or entity that: (1) directly or indirectly controls or has the power to control the applicant, (2) is directly or indirectly controlled by the applicant, (3) is directly or indirectly controlled by a third party that also controls or has the power to control the applicant, or (4) has an "identity of interest" with the applicant. The Commission's definition of an affiliate of the applicant encompasses both controlling interests of the applicant and affiliates of controlling interests of the applicant. For more information on how to disclose information regarding controlling interests and affiliates, applicants should refer to 47 CFR 1.2110(c)(2) and (c)(5) respectively, as well as the FCC Form 175 Instructions.

An applicant seeking a small business bidding credit must demonstrate, through its disclosures, its eligibility for the bidding credit by: (1) meeting the applicable small business size standard, based on the Commission's controlling interest and affiliation rules; and (2) retaining control, on a license-by-license basis, over the spectrum associated with the licenses for which it seeks small business benefits. For purposes of the first prong of the standard, applicants should note that control and affiliation may arise through, among other things, ownership interests, voting interests, management and other operating agreements, or the terms of any other types of agreements—including spectrum lease agreements—that independently or together create a controlling, or potentially controlling, interest in the applicant's or licensee's business as a whole. In addition, once an applicant demonstrates eligibility as a small business under the first prong, it must also be eligible for benefits on a license-by-license basis under the second prong. As part of making the FCC Form 175 certification that it is qualified as a designated entity under 47 CFR 1.2110, an applicant is certifying that it does not have any spectrum use or other agreements that would confer either *de jure* or *de facto* control of any

license it seeks to acquire with bidding credits.

With respect to the retention of control over the spectrum associated with the licenses at issue, applicants should note that, under this standard for evaluating eligibility for small business bidding credits, if an applicant executes a spectrum use agreement that does not comply with the Commission's relevant standard of *de facto* control, then it will be subject to unjust enrichment obligations for the benefits associated with that particular license. If that spectrum use agreement (either alone or in combination with the Commission's designated entity controlling interest and attribution rules) goes so far as to confer control of the applicant's overall business, then the gross revenues of the additional interest holders will be attributed to the applicant, which could render the applicant ineligible for all current and future small business benefits on all licenses.

**Limitation on Spectrum Use.** Under 47 CFR 1.2110(c)(2)(ii)(J), the gross revenues (or the subscribers, in the case of a rural service provider) of an applicant's disclosable interest holder are attributable to the applicant, on a license-by-license basis, if the disclosable interest holder has an agreement with the applicant to use, in any manner, more than 25% of the spectrum capacity of any license won by the applicant and acquired with a bidding credit during the five-year unjust enrichment period for the applicable license. For purposes of this requirement, a disclosable interest holder of an applicant seeking designated entity benefits is defined as any individual or entity holding a 10% or greater interest of any kind in the applicant, including but not limited to, a 10% or greater interest in any class of stock, warrants, options, or debt securities in the applicant or licensee. Any applicant seeking a bidding credit for licenses won in Auction 113 will be subject to this attribution rule and must make the requisite disclosures.

Certain disclosable interest holders may be excluded from this attribution rule. Specifically, an applicant claiming the rural service provider bidding credit may have a spectrum license use agreement with a disclosable interest holder, without having to attribute the disclosable interest holder's subscribers, so long as the disclosable interest holder is independently eligible for a rural service provider credit and the disclosable interest holder's spectrum use and any spectrum use agreement is otherwise permissible under the Commission's existing rules. If applicable, the applicant must attach to



its FCC Form 175 any additional information as may be required to indicate any license that may be subject to this attribution rule or to demonstrate its eligibility for the exception from this attribution rule. Consistent with the Commission's limited information procedures, OEA and WTB intend to withhold from public disclosure all information contained in any such attachments until after the close of Auction 113.

*Exceptions from Attribution Rules for Small Businesses and Rural Service Providers.* Applicants claiming designated entity benefits may be eligible for certain exceptions from the Commission's attribution rules. For example, in calculating an applicant's gross revenues under the controlling interest standard, the Commission will not attribute to the applicant the personal net worth, including personal income, of its officers and directors. However, to the extent that the officers and directors of the applicant are controlling interest holders of other entities, the gross revenues of those entities will be attributed to the applicant. Moreover, if an officer or director operates a separate business, then the gross revenues derived from that business would be attributed to the applicant.

The Commission has also exempted from attribution to the applicant the gross revenues of the affiliates of a rural telephone cooperative's officers and directors, if certain conditions specified in 47 CFR 1.2110(b)(4)(iii) are met. An applicant claiming this exemption must provide, in an attachment, an affirmative statement that the applicant, affiliate, and/or controlling interest is an eligible rural telephone cooperative within the meaning of 47 CFR 1.2110(b)(4)(iii), and the applicant must supply any additional information as may be required to demonstrate eligibility for the exemption from the attribution rule.

An applicant claiming a rural service provider bidding credit may be eligible for an exception from the Commission's attribution rules as an existing rural partnership. To qualify for this exception, an applicant must be a rural partnership providing service as of July 16, 2015, and each member of the rural partnership must individually have fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers. Because each member of the rural partnership must individually qualify for the bidding credit, by definition, a partnership that includes a nationwide provider as a member will not be eligible for the benefit.

Finally, a consortium of small businesses or rural service providers may seek an exception from the Commission's attribution rules. Under the Commission's rules, a consortium of small businesses or rural service providers is a conglomerate organization composed of two or more entities, each of which individually satisfies the definition of small business or rural service provider. A consortium must provide additional information for each member demonstrating each member's eligibility for the claimed bidding credit in order to show that the applicant satisfies the eligibility criteria for the bidding credit. The gross revenue or subscriber information of each consortium member will not be aggregated for purposes of determining the consortium's eligibility for the claimed bidding credit. This information must be provided, however, to ensure that each consortium member qualifies for the bidding credit sought by the consortium.

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

Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 113, but a former defaulter or delinquent may participate so long as it is otherwise qualified and makes an upfront payment that is 50% more than would otherwise be necessary. Accordingly, each applicant must certify under penalty of perjury on its FCC Form 175 that it, its affiliates, its controlling interests, and the affiliates of its controlling interests are not in default on any payment for a Commission construction permit or license (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Additionally, an applicant must certify under penalty of perjury whether it (along with its controlling interests) has ever been in default on any payment for a Commission construction permit or license (including down payments) or has ever been delinquent on any non-tax debt owed to any Federal agency, subject to the specific exclusions provided in the Commission's rules. For purposes of making these certifications, the term "controlling interest" is defined in 47 CFR 1.2105(a)(4)(i).

Under the Commission's rule regarding applications by former defaulters, an applicant is considered a "former defaulter" or a "former delinquent" when, as of the FCC Form 175 filing deadline, the applicant or any

of its controlling interests has defaulted on any Commission construction permit or license or has been delinquent on any non-tax debt owed to any Federal agency, but has since remedied all such defaults and cured all the outstanding non-tax delinquencies. For purposes of the certification under 47 CFR 1.2105(a)(2)(xii), the applicant may exclude from consideration any cured default on a Commission construction permit or license or cured delinquency on a non-tax debt owed to a Federal agency for which any of the following criteria are met: (1) the notice of the final payment deadline or delinquency was received more than seven years before the FCC Form 175 filing deadline, (2) the default or delinquency amounted to less than \$100,000, (3) the default or delinquency was paid within two quarters (*i.e.*, six months) after receiving the notice of the final payment deadline or delinquency, or (4) the default or delinquency was the subject of a legal or arbitration proceeding and was cured upon resolution of the proceeding. With respect to the first exclusion, notice to a debtor may include notice of a final payment deadline or notice of delinquency and may be express or implied depending on the origin of any Federal non-tax debt giving rise to a default or delinquency. Additionally, for the third exclusion, the date of receipt of the notice of a final default deadline or delinquency by the intended party or debtor will be used for purposes of verifying receipt of notice.

In addition to the *Auction 113 Procedures Public Notice*, applicants are encouraged to review previous guidance on default and delinquency disclosure requirements in the context of the auction short-form application process. Parties are also encouraged to consult with Auctions Division staff if they have any questions about default and delinquency disclosure requirements.

The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission has previously adopted rules, including a provision referred to as the "red light rule," that implement its obligations under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. When adopting that rule, the Commission explicitly declared, however, that its competitive bidding rules "are not affected" by the red light

rule. As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of its competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies.

OEA and WTB remind each applicant, however, that any indication in the Commission's Red Light Display System, which provides information regarding debts currently owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule ultimately may prevent the processing of long-form applications by auction winners, an auction applicant's lack of current "red light" status is not necessarily determinative of its eligibility to participate in an auction (or whether it may be subject to an increased upfront payment obligation). Moreover, a prospective applicant in Auction 113 should note that any long-form applications filed after the close of bidding will be reviewed for compliance with the Commission's red light rule, and such review may result in the dismissal of a winning bidder's long-form application. OEA and WTB encourage each applicant to carefully review all records and other available Federal agency databases and information sources to determine whether the applicant, or any of its affiliates, or any of its controlling interests, or any of the affiliates of its controlling interests, owes or was ever delinquent in the payment of non-tax debt owed to any Federal agency.

#### *J. Modifications to FCC Form 175*

##### **1. Duty To Maintain Accuracy and Completeness of FCC Form 175**

Pursuant to 47 CFR 1.65, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in Auction 113. Consistent with the requirements for prior spectrum auctions, an applicant for Auction 113 must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its FCC Form 175 no more than five business days after the applicant becomes aware of the need for the amendment. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is

subsequently determined to be a major modification.

##### **2. Modifying an FCC Form 175**

A party seeking to participate in Auction 113 must file an FCC Form 175 electronically via the AAP in the AAS. During the initial filing window, an applicant will be able to make any necessary modifications to its FCC Form 175 in the AAP. An applicant that has certified and submitted its FCC Form 175 before the close of the initial filing window may continue to make modifications as often as necessary until the close of that window; however, the applicant must re-certify and re-submit its FCC Form 175 before the close of the initial filing window to confirm and effect its latest application changes. After each submission, a confirmation page will be displayed stating the submission time and submission date.

An applicant will also be allowed to modify its FCC Form 175 in the AAP, except for certain fields, during the resubmission filing window and after the release of the public notice announcing the qualified bidders for an auction. During these times, if an applicant needs to make permissible minor changes to its FCC Form 175 or must make changes in order to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then it must make the change(s) in the AAP and re-certify and re-submit its application to confirm and effect the change(s).

An applicant's ability to modify its FCC Form 175 in the AAP will be limited between the closing of the initial filing window and the opening of the application resubmission filing window, and between the closing of the resubmission filing window and the release of the public notice announcing the qualified bidders for an auction. During these periods, an applicant will be able to view its submitted application, but will be permitted to modify only the applicant's address, responsible party address, and contact information (e.g., name, address, telephone number) in the AAP. An applicant will not be able to modify any other pages of the FCC Form 175 in the AAP during these periods. If, during these periods, an applicant needs to make other permissible minor changes to its FCC Form 175, or changes to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then the applicant must submit a letter briefly summarizing the changes to its FCC Form 175 via email to [auction113@fcc.gov](mailto:auction113@fcc.gov). The email summarizing the changes must include a subject line

referring to Auction 113 and the name of the applicant, for example, "Re: Changes to Auction 113 Auction Application of XYZ Corp." Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant that submits its changes in this manner must subsequently modify, certify, and submit its FCC Form 175 application(s) electronically in the AAP once it is again open and available to applicants.

Applicants should also note that even at times when the AAP is open and available to applicants, the system will not allow an applicant to make certain other permissible changes itself (e.g., correcting a misstatement of the applicant's legal classification). If an applicant needs to make a permissible minor change of this nature, then it must submit a written request by email to the Auctions Division Chief, via [auction113@fcc.gov](mailto:auction113@fcc.gov) requesting that the Commission manually make the change on the applicant's behalf. Once Commission staff has informed the applicant that the change has been made in the Auction Application Portal, the applicant must then re-certify and re-submit its FCC Form 175 in the AAP to confirm and effect the change(s).

As with filing the FCC Form 175, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.2105(c) or the limited information procedures adopted for Auction 113. An applicant seeking to submit, outside the AAP, information that might reflect non-public information, such as an applicant's license selection(s), upfront payment amount, or bidding eligibility, should consider including in its email a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition on certain communications pursuant to 47 CFR 1.2105(c).

Questions about FCC Form 175 amendments should be directed to the Auctions Division at [auction113@fcc.gov](mailto:auction113@fcc.gov) or (202) 418-0660.

#### IV. Information Procedures and Prohibited Communications

##### A. Information Procedures During the Auction Process

Consistent with past practice in many prior spectrum license auctions, OEA and WTB adopt the proposal to limit information available during Auction 113 in order to prevent the identification of bidders placing particular bids until after the bidding has closed. Specifically, OEA and WTB will not make public until after bidding has closed: (1) the licenses that an applicant selects for bidding in its short-form application, (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 113, (3) any applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid. Moreover, OEA and WTB will not make public until after the close of the auction whether an applicant has submitted with its short-form application a signed acknowledgment statement regarding the acceptance of interference from Federal incumbents for operations in the 1755–1780 MHz.

OEA and WTB also adopt their proposal to make public after each bidding round, for each license, the aggregate demand, the posted price of the last completed round, and the clock price for the next round. The identities of bidders making specific bids will not be disclosed until after the close of bidding in the auction. Bids placed according to a bidder's proxy instructions will be made available, but a bidder's proxy instructions will not be disclosed because they may contain price information private to the bidder. The limited comment OEA and WTB received on this proposal largely supports adopting it.

Each bidder will have access to additional information related to its own bidding and bid eligibility. Specifically, after the bids of a round have been processed, the bidding system will inform each bidder of its processed demand for each license, its proxy instructions, and its eligibility for the next round. The identities of bidders placing specific bids will *not* be disclosed until after the close of bidding. After the close of bidding, bidders' license selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related actions will be made publicly available.

The limited information procedures (sometimes also referred to as anonymous bidding) OEA and WTB adopt here have been effective in past auctions to safeguard against potential anticompetitive behavior such as retaliatory bidding and collusion. Commenters generally support adopting the limited information procedures as proposed. One commenter supports adopting limited information procedures generally to promote fair competition and discourage anticompetitive conduct, but suggests a more restrictive approach—*i.e.*, implementing phased disclosures of aggregate demand data, contending that in smaller markets with fewer licenses available, bidding patterns and price movements revealed by the proposed limited information procedures can indirectly reveal bidding strategies. Another commenter, however, asks OEA and WTB to reject these suggested enhancements, arguing that such additional procedures would complicate the development of Auction 113 bidding software and strategies and that there is no reason for the Commission “to stray from the tried-and-true bidding framework that has made its auctions a success.”

Because the commenter suggesting this more restrictive approach provides no evidence that the limited information procedures used in the Commission's past auctions have facilitated anticompetitive bidding behavior in any auction, OEA and WTB are not persuaded that they should depart from the Commission's now-established practice of implementing these procedures in wireless spectrum auctions, and they conclude that the competitive benefits associated with limiting information disclosure support adoption of such procedures and outweigh any potential benefits of full disclosure. OEA and WTB also agree that implementing the proposal for the phased disclosure of aggregate demand data would unnecessarily complicate Auction 113 bidding procedures.

OEA and WTB warn applicants that direct or indirect communication to other applicants or the public disclosure of non-public information (*e.g.*, reductions in eligibility, identities of bidders) could violate the Commission's rule prohibiting certain communications. Therefore, to the extent an applicant believes that such a disclosure is required by law or regulation, including regulations issued by the U.S. Securities and Exchange Commission (SEC), OEA and WTB strongly urge that the applicant consult with Commission staff in the Auctions Division before making such disclosure.

##### B. Prohibited Communications and Compliance With Antitrust Laws

The rules prohibiting certain communications set forth in 47 CFR 1.2105(c) apply to each “applicant” in Auction 113. 47 CFR 1.2105(c)(1) provides that, subject to specified exceptions, “[a]fter the short-form application filing deadline, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider [of communications services] that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline[.]” Any applicant found to have violated these communication prohibitions may be subject to sanctions.

##### 1. Entities Subject to 47 CFR 1.2105(c)

An “applicant” for purposes of this rule includes all “controlling interests” in the entity submitting the FCC Form 175 auction application, as well as all holders of interests amounting to 10% or more of the entity (including institutional investors and asset management companies), and all officers and directors of that entity. Under 47 CFR 1.2105(c), a party that submits an application becomes an “applicant” under the rule, which goes into effect at the application deadline, and that status does not change based on later developments.

##### 2. Prohibition Applies Until Down Payment Deadline

The prohibition in 47 CFR 1.2105(c) on certain communications begins at an auction's short-form application filing deadline and ends at the auction's down payment deadline after the auction closes, which will be announced in a future public notice. To be clear, communications that occur even after bidding has ended and the auction has closed, but before the down payment deadline, are still subject to 47 CFR 1.2105(c).

##### 3. Scope of Prohibition on Certain Communications; Prohibition on Joint Bidding Agreements

47 CFR 1.2105(c) prohibits certain communications between applicants for an auction, regardless of whether the applicants seek permits or licenses in the same geographic area or market. The

rule also applies to communications by applicants with non-applicant nationwide providers of communications services and by nationwide applicants with non-applicant, non-nationwide providers. For purposes of the prohibited communications rule for Auction 113, OEA and WTB consider AT&T, T-Mobile, and Verizon to be “nationwide providers.” The rule further prohibits “joint bidding arrangements,” including arrangements relating to the permits or licenses being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific permits or licenses on which to bid, and any such arrangements relating to the post-auction market structure. The rule allows for limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission’s rule prohibiting joint bidding, provided such arrangement is disclosed on the applicant’s auction application. Applicants may communicate pursuant to any pre-existing agreements, arrangements, or understandings relating to the licenses being auctioned that are solely operational or that provide for the transfer or assignment of licenses, provided that such agreements, arrangements, or understandings are disclosed on their applications and do not address or communicate bids (including amounts), bidding strategies, or the particular permits or licenses on which to bid or the post-auction market structure.

In addition to express statements of bids and bidding strategies, the prohibition against communicating “in any manner” includes public disclosures as well as private communications and indirect or implicit communications. Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant.

Parties subject to 47 CFR 1.2105(c) should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any applicant’s bids or bidding strategies, even if the officers, directors, or employees are not involved in their company’s participation in the auction or if the information received is wholly unsolicited. Such information may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer

and director for two or more applicants, the bids and bidding strategies of one applicant are presumed to be conveyed to the other applicant through the shared officer, which creates an apparent violation of the rule.

Subject to the limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission’s rule prohibiting joint bidding, 47 CFR 1.2105(c)(1) prohibits applicants from communicating with specified other parties only with respect to “their own, or each other’s, or any other applicant’s bids or bidding strategies.” The *Prohibited Communications Guidance Public Notice*, 80 FR 63215 (October 19, 2015), released in advance of the Broadcast Incentive Auction (Auction 1000), reviewed the scope of the prohibition generally, as well as in that specific auction’s forward auction of spectrum licenses and reverse auction to relinquish broadcast licenses. As the Commission explained therein, a communication conveying “bids or bidding strategies (including post-auction market structure)” must also relate to the “licenses being auctioned” in order to be covered by the prohibition. Thus, the prohibition is limited in scope and does not apply to all communications between or among the specified parties. The Commission consistently has made clear that application of the rule prohibiting communications has never required total suspension of essential ongoing business. Entities subject to the prohibition may negotiate agreements during the prohibition period, provided that the communications involved do not relate to both: (1) the licenses being auctioned and (2) bids or bidding strategies or post-auction market structure.

Accordingly, business discussions and negotiations that do not convey information about the bids or bidding strategies, including the post-auction market structure, of an applicant are not prohibited by the rule. Moreover, not all auction-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in Auction 113 will not violate the rule. In contrast, communicating, among other things, how a party will participate, including specific geographic areas selected, specific bid amounts, and/or whether or not the party is placing bids, would convey bids or bidding strategies and would be prohibited.

While 47 CFR 1.2105(c) does not prohibit business discussions and negotiations among auction applicants that are unrelated to the auction, each

applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, bids or bidding strategies. Certain discussions, even if they do not directly address the licenses offered in Auction 113 or the AWS–1 and AWS–3 bands still might touch upon subject areas that relate to bids and bidding strategies or to post-auction market structure, which could convey price or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

OEA and WTB caution applicants that bids or bidding strategies may be communicated outside situations that involve one party subject to the prohibition communicating privately and directly with another such party. For example, the Commission has warned that prohibited “communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly.” Moreover, the Commission found a violation of the rule against prohibited communications when an applicant used the Commission’s bidding system to disclose “its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate . . . in specific markets,” and it has placed auction participants on notice that the use of its bidding system “to disclose market information to competitors will not be tolerated and will subject bidders to sanctions.”

Likewise, when completing a short-form application, each applicant should avoid any statements or disclosures that may violate 47 CFR 1.2105(c), particularly in light of the limited information procedures in effect for Auction 113. Specifically, an applicant should avoid including any information in its short-form application that might convey information regarding its license selections, such as referring to markets or other geographic areas in describing agreements, including any information in application attachments that will be publicly available that may otherwise disclose the applicant’s license selections, or using applicant names or attachment file names in the application that refer to licenses being offered.

Applicants also should be mindful that communicating non-public application or bidding information publicly or privately to another

applicant may violate 47 CFR 1.2105(c) even though that information subsequently may be made public during later periods of the application or bidding processes.

#### 4. Communicating With Third Parties

47 CFR 1.2105(c) does not prohibit an applicant from communicating bids or bidding strategies to a third party, such as a consultant or consulting firm, counsel, or lender. An applicant should take appropriate steps, however, to ensure that any third party it employs for advice pertaining to its bids or bidding strategies does not become a conduit for prohibited communications to other specified parties, as that would violate the rule. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding bids or bidding strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or auction consultants, may advise individual applicants on bids or bidding strategies, as long as such firms implement firewalls and other compliance procedures that prevent such individuals from communicating the bids or bidding strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability if a violation of the rule has occurred.

As the Commission has noted in other spectrum auctions, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of becoming a conduit for a prohibited communication. OEA and WTB will take the same approach to interpreting the prohibited communications rule in Auction 113. OEA and WTB emphasize that whether a prohibited communication has taken place in a given case will depend on all the facts pertaining to the case, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

OEA and WTB remind potential applicants that they may discuss the short-form application or bids for specific licenses with the counsel, consultant, or expert of their choice *before* the short-form application deadline. Furthermore, the same third-party individual could continue to give

advice after the short-form deadline regarding the application, provided that no information pertaining to bids or bidding strategies, including licenses selected on the short-form application, is conveyed to that individual.

Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, even though communicating that it has applied to participate in the auction will not violate the rule, an applicant's statement to the press or a statement on social media that it intends to stop bidding in an auction could give rise to a finding of a 47 CFR 1.2105 violation. Similarly, an applicant's public statement of intent not to place bids during bidding in Auction 113 could also violate the rule.

#### 5. 47 CFR 1.2105(c) Certifications

By electronically submitting its FCC Form 175, each applicant for Auction 113 certifies its compliance with 47 CFR 1.2105(c) of the rules. The mere filing of a certifying statement as part of an application, however, will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted.

#### 6. Duty To Report Prohibited Communications

47 CFR 1.2105(c)(4) requires that any applicant that makes or receives a communication that appears to violate 47 CFR 1.2105(c) must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

#### 7. Procedures for Reporting Prohibited Communications

A party reporting any information or communication pursuant to 47 CFR 1.65(a), 1.2105(a)(2), or 1.2105(c)(4) must take care to ensure that any report of a prohibited communication does not itself give rise to a violation of 47 CFR 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other parties specified under the rule through the use of Commission filing procedures that allow such materials to be made available for public inspection.

An applicant must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's auctions. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any reports required by 47 CFR 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 113 Procedures Public Notice*. For Auction 113, such reports must be filed with the Chief of the Auctions Division, Office of Economics and Analytics, by the most expeditious means available. Any such report should be submitted by email to the Auctions Division Chief and sent to [auction113@fcc.gov](mailto:auction113@fcc.gov). If you choose instead to submit a report in hard copy, contact Auctions Division staff at [auction113@fcc.gov](mailto:auction113@fcc.gov) or (202) 418-0660 for guidance.

Given the potential competitive sensitivity of public disclosure of information in such a report, a party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in 47 CFR 0.459. OEA and WTB encourage such parties to coordinate with the Auctions Division staff about the procedures for submitting such reports.

#### 8. Additional Information Concerning Prohibition on Certain Communications in Commission Auctions

A summary listing of documents issued by the Commission and OEA/WTB addressing the application of 47 CFR 1.2105(c) is available on the Commission's auction web page at [www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications](http://www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications).

#### 9. Antitrust Laws

Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of 47 CFR 1.2105(c)(4) will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits a short-form application. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in

order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other.

To the extent OEA and WTB become aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, they may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, then it may be subject to a forfeiture and may be prohibited from participating further in Auction 113 and in future auctions, among other sanctions.

## V. Bidding Procedures

OEA and WTB adopt their proposal to conduct Auction 113 using an ascending clock-1 auction format. The clock-1 auction format was used in Auction 108 and is similar to the clock phase of past Commission ascending clock auctions, but rather than offering multiple generic spectrum blocks in a category in a geographic area, each frequency-specific license in an EA or CMA will constitute its own category with a supply of 1. Therefore, in the clock-1 auction format adopted for Auction 113, bidders will bid on frequency-specific licenses in a clock phase. This proposal has ample support in the record.

While OEA and WTB set forth the key bidding procedures for the clock-1 auction in the *Auction 113 Procedures Public Notice*, OEA, in conjunction with WTB, released concurrently with the *Auction 113 Procedures Public Notice* an updated technical guide (Auction 113 Technical Guide) that provides further technical details about the adopted bidding procedures. The information in the Auction 113 Technical Guide, which is available in the Education section on the Auction 113 website ([www.fcc.gov/auction/113](http://www.fcc.gov/auction/113)), supplements the decisions made by OEA and WTB in the *Auction 113 Procedures Public Notice*.

### A. Clock-1 Auction Structure

Under the clock-1 format that OEA and WTB adopt, each bidder will be able to bid for specific licenses in the clock bidding rounds, in license-by-license bidding. The auction will proceed in a series of rounds, with bidding conducted simultaneously for all licenses available in the auction. Consistent with prior Commission clock auctions, for each bidding round, the bidding system will announce a clock

price for each license, and a bidder will indicate its demand for licenses at the prices associated with the current round. Under the clock-1 auction format, a bidder's demand for a license can be zero or one.

The clock price for a license will increase from round to round if more than one bidder indicates demand for the license. The bidding rounds will continue until the number of bidders demanding each license does not exceed one. Once bidding rounds stop, the bidder with demand for a license will become the winning bidder.

### B. Individual Licenses in Two Geographic Area Types

Auction 113 will offer 200 geographic area-based licenses in 199 markets in the 1695–1710 MHz, 1755–1780 MHz, and the 2155–2180 MHz bands. The Auction 113 inventory consists of licenses in EAs and CMAs. The 48 EA licenses include frequency blocks designated A1, B1, H, I, and/or J; the 152 CMA licenses are all for frequency block G. In Auction 113, only one geographic area (EA173) has more than one frequency block available, and it includes both the H and the I blocks.

### C. Bidding Rounds

Auction 113 will consist of sequential bidding rounds, each followed by the release of round results. OEA and WTB will conduct bidding simultaneously for all licenses available in the auction. In the first bidding round of Auction 113, a bidder will indicate whether it demands the licenses at the minimum opening bid price. Before each subsequent bidding round, the bidding system will announce a start-of-round price and a clock price for each license, and during the round, qualified bidders will indicate the licenses for which they wish to bid at the prices associated with the current round. Bidding rounds will be open for predetermined periods of time. Bidders will be subject to activity and eligibility rules that govern the pace at which they participate in the auction.

For each license, the clock price will increase from round to round if more than one bidder indicates demand for that license. The bidding rounds will continue until, for every license, demand does not exceed one. At that point, the bidder still indicating demand for a license will be the winning bidder.

The initial bidding schedule will be announced in a public notice to be released at least one week before the start of bidding. Details on viewing round results, including the location and format of downloadable results files for each round, will be released

concurrent with or prior to that public notice.

A bidder will be able to submit bids via the internet through the bidding system user interface, the bidding system's upload function, or using the auction bidder line. The bidding system's upload function accepts bid files in a comma-separated values (CSV) text format. The bidding system will allow a bidder to submit bids only for licenses the bidder selected on its FCC Form 175 and for which the bidder has sufficient bidding eligibility.

During each open bidding round, a bidder will be able to modify its bids in the current bidding round. Bids can be modified either through the user interface, the bidding system's upload function, or through the auction bidder line. If a bidder modifies its bids by uploading a new file, then that file, including all of the file's bids and modifications, will replace all of the bidder's bids previously submitted in the round. The system will take the last bid file submission as that bidder's bids for the round. OEA and WTB urge bidders to verify their bids in each round. Information on how to do so will be made available in educational materials that OEA will provide, including a bidding system user guide and an online bidding procedures tutorial.

OEA will retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. Such adjustments may include changes to the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors.

### D. Stopping Rule

OEA and WTB adopt their proposal to employ a simultaneous stopping rule for Auction 113, which means all licenses simultaneously remain open for bidding until the first round in which, after bid processing, no license has excess demand, at which point the auction will close.

### E. Activity Rule

For the reasons set forth in the *Auction 113 Comment Public Notice*, OEA and WTB adopt their proposal to employ an activity rule that requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. For this clock auction, a bidder's activity in a round for purposes of the activity rule will be the sum of the bidding units associated with the bidder's demands as

applied by the bidding system during bid processing. Bidders are required to be active on a specific percentage (the *activity requirement percentage*) of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place bids in subsequent rounds of the auction.

OEA and WTB adopt their proposal to require that bidders maintain a fixed, high level of activity in each round of Auction 113 in order to maintain bidding eligibility. In order for posted prices and aggregate demand in the clock auction to reflect bidders' true demands reliably, the bidding system requires a high activity requirement percentage to incentivize bidders to start bidding early in the auction for the licenses that they want to acquire. Consistent with past practice, bidders will be required to be active on between 90% and 100% of their bidding eligibility in all clock rounds, with the specific percentage for each round to be set by OEA. OEA will set the activity requirement percentage initially at 95%.

If the activity requirement is met, then the bidder's eligibility will not change for the next round. If the activity requirement is not met in a round, the bidder's eligibility will be reduced to an amount that brings the bidder into compliance with the requirement. Bidding activity will be based on the bids that are applied by the bidding system. That is, if a bidder submits a bid to reduce its demand for a license, but the bidding system cannot apply the request because demand for that license will fall below one, then the bidder's activity will reflect its unreduced demand (*i.e.*, the license will still count toward the bidder's activity).

OEA retains the discretion to change the activity requirement percentage during the auction. The bidding system will announce any such changes in advance of the round in which they would take effect, giving bidders adequate notice to adjust their bidding strategies.

Most commenters did not object to the proposal to set the initial activity requirement percentage at 95%, which the Commission has successfully used in every clock auction since the format was introduced for the Broadcast Incentive Auction. However, one commenter proposes to reduce the activity requirement to 90% or to use a more complicated tiered eligibility system to reduce the activity requirement below 95%, arguing that "strict" activity requirements create

challenges for bidders, especially smaller entities, who are "navigating complex auction rules." This commenter claims that "unforeseen technical or financial constraints have limited bidder activity, leading to a loss of eligibility," but provides no examples of such instances. OEA and WTB are not persuaded by these unsupported arguments, and see no convincing evidence of a need to deviate from the proposed 95% initial activity requirement. Moreover, OEA and WTB agree that they should not depart from the "tried-and-true bidding framework" that has made Commission auctions successful, including changing features that are in place to protect the integrity of the auction or introducing features that would unnecessarily complicate bidding system development or bidding strategies. The 95% initial activity requirement has consistently demonstrated that it balances providing bidders with the flexibility to substitute across markets in response to learned price information with providing bidders incentives to bid in each round of the auction for the markets that they are sincerely interested in. Lowering the initial activity requirement could extend the duration of the auction if bidders delay placing their bids until the activity requirement is increased. OEA and WTB therefore decline to reduce the initial activity requirement below 95% because doing so could create more uncertainty regarding the exact level of bidder demand, provide less helpful information to bidders about aggregate demand, and likely prolong the auction as bidders could delay their bidding until later in the auction.

In the *Auction 113 Comment Public Notice*, OEA and WTB sought comment on procedures for a contingent bidding limit that would allow a bidder's submitted bids to have bidding activity that is greater than the bidder's eligibility. In particular, OEA and WTB sought comment on whether the contingent bidding limit would be useful with the limited inventory in Auction 113 or whether it would add unnecessary complexity. The only two commenters that addressed this both object to allowing contingent bidding in Auction 113, arguing that the contingent bidding limit would introduce complexity and uncertainty into the bidding without adding any appreciable benefits to the bidders or the Commission, and that the contingent bidding limit was scarcely utilized by bidders based on their analysis of bidding data from the Commission's four most recent clock auctions. OEA and WTB agree that including a

contingent bidding limit in Auction 113 would introduce added complexity. Given that Auction 113 has a more limited inventory than recent auctions, OEA and WTB expect fewer bidders to attempt to switch between licenses, lowering the likelihood that bidders see submitted bids go unapplied during bid processing. As such, OEA and WTB find a contingent bidding limit to be unnecessary, and will not include it in Auction 113.

For Auction 113, OEA and WTB will not provide for activity rule waivers to preserve a bidder's eligibility. This approach has been followed in every ascending clock auction since the Commission introduced the format. The clock auction relies on precisely identifying the point at which demand decreases to equal supply to determine winning bidders and final prices. Allowing waivers would create uncertainty with respect to the exact level of bidder demand, would reduce the incentives to bid sincerely, and would interfere with the basic clock price-setting and winner determination mechanism. Moreover, uncertainty about the level of demand would affect the way bidders' requests to reduce demand are processed by the bidding system. Submitting proxy instructions can address some of the circumstances under which a bidder inadvertently risks losing bidding eligibility.

#### F. Acceptable Bids

##### 1. Reserve Prices

In the *Auction 113 Comment Public Notice*, OEA and WTB proposed not to establish reserve prices other than minimum opening bid amounts for the licenses being offered in Auction 113, reasoning that, unlike Auction 97, the public interest did not provide any specific basis for doing so in Auction 113. However, OEA and WTB invited commenters that consider a reserve price to be in the public interest to describe what specific factors lead them to that conclusion.

Three commenters argue that adopting an aggregate reserve price is necessary to achieve Congress' goal of fully funding the Commission's Supply Chain Reimbursement Program in a single auction, to ensure that AWS-3 spectrum is not sold for less than it is worth, and to avoid subjecting Auction 97 defaulting bidders to disproportionately large liabilities—with one commenter specifically advocating for the adoption of a \$3.3 billion aggregate reserve. Two other commenters, however, ask OEA and WTB to reject calls for an aggregate reserve price in Auction 113, arguing



that it is not necessary where the Commission is already proposing robust minimum opening bids that will prevent licenses from being assigned at nominal amounts. Those commenters further observe that an aggregate reserve price that is set too high could ultimately cause the auction to fail, which would in turn deprive the Treasury of all revenue and result in valuable spectrum remaining unlicensed and unused.

OEA and WTB agree, and adopt their proposal not to establish reserve prices for Auction 113 licenses, other than minimum opening bid amounts. As the Commission has previously explained, while the primary purpose of a minimum opening bid is to speed up the course of an auction, a minimum opening bid also can serve a revenue-enhancing function like a reserve price, because if bids are not accepted below a certain level, they will also not be sold below that level. That is, a minimum opening bid effectively functions as a reserve price. OEA and WTB therefore conclude that adopting an aggregate reserve price is not necessary for an auction in which they are adopting minimum opening bids that are sufficiently high so as to prevent licenses from being assigned at nominal amounts and in which OEA and WTB have no statutory obligation to do so.

Contrary to one commenter's arguments, the Commission is not required to adopt a reserve price to ensure that the maximum funding earmarked by Congress for the Commission's Supply Chain Reimbursement Program is fully funded from a single auction. OEA and WTB agree that Congress's directive that proceeds raised in Auction 113 be used to support the Commission's Supply Chain Reimbursement Program does not require that the Commission risk a failed auction by setting a \$3.3 billion reserve price. If a reserve was established but not met, the auction would provide no funds at all. It is unreasonable to believe that Congress intended such a result. Moreover, in the *Part 1 Third Report and Order*, 63 FR 2315 (January 15, 1998), 63 FR 12658 (March 16, 1998), 63 FR 29958 (June 2, 1998), the Commission concluded that 47 U.S.C. 309(j)(4)(F) does not require it to use reserve prices or minimum opening bids to maximize the revenue earned in all future spectrum auctions because the other auction goals in 47 U.S.C. 309(j)(3)—such as ensuring the deployment and rapid deployment of new technologies and services and promoting economic opportunity and competition—have not been eliminated,

and the Commission must continue to balance and pursue all of its objectives.

OEA and WTB find unavailing commenters' arguments that the lack of a reserve price would be detrimental to defaulting bidders from Auction 97 and that setting a reserve price would help these defaulting bidders avoid facing disproportionately large liabilities in Auction 113. The Commission is not obligated to establish an aggregate reserve price equal to the sum of all bids on which bidders defaulted in Auction 97—*i.e.*, \$3.3 billion—in order to shield past defaulting bidders from the consequences of their own actions and to protect them from any risk that they would be required to pay a deficiency payment following Auction 113. Indeed, bidders in a Commission auction are on notice that they bear any risk that may be associated with their winning bids, because the Commission's default payment rules make clear that “[a] bidder assumes a binding obligation to pay its full bid amount upon acceptance of the winning bid at the close of an auction.” See 47 CFR 1.2104(g)(2). Those rules also make clear that if a bidder defaults on its winning bid, it will be subject to a default payment consisting of a deficiency payment equal to the difference between the amount of the defaulted bid amount and the amount of the winning bid in a subsequent auction, plus an additional default payment percentage amount. Setting a reserve price that would render the deficiency payment provision of the default payment meaningless would distort auction incentives and likely encourage more defaults in the future.

The Commission has previously explained that the reserve price and minimum opening bid provision in 47 U.S.C. 309(j)(4)(F) is intended to prevent licenses from being assigned via auction at nominal amounts, which could result, for example, from insufficient competition in the auction that might in turn be due to the inability of potential bidders to assess the market adequately or develop business plans. Moreover, the Commission has discretion regarding whether to employ a minimum opening bid and/or reserve price in an auction, after considering, among other factors, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands, and any other relevant factors that could reasonably have an impact on valuation of the spectrum being auctioned. Given the circumstances in Auction 113—*i.e.*, that it is an auction of licenses in

spectrum bands that are already in use for 5G services, that this is the first auction the Commission will be conducting in almost four years, and that the licenses being offered in Auction 113 have been lying fallow for ten years during the pendency of litigation—OEA and WTB conclude these factors should be sufficient to ensure that there will be sufficient competition in the auction and that these licenses will not be assigned at nominal amounts. This will in turn benefit the public more than establishing a reserve price in the absence of a statutory directive to do so.

## 2. Minimum Opening Bids

As is typical for spectrum license auctions, OEA and WTB sought comment on the use of a minimum opening bid and/or reserve price, as mandated by 47 U.S.C. 309(j) of the Communications Act. OEA and WTB will establish minimum opening bids for every license in Auction 113. The bidding system will not accept bids at prices less than the minimum opening bid specified for each license. Based on the Commission's experience in past auctions, setting appropriate minimum opening bids is an effective tool to prevent an excessive number of bidding rounds at very low prices.

OEA and WTB adopt their proposed minimum opening bid amounts. OEA and WTB calculate minimum opening bids on a license-by-license basis based on \$0.01 per MHz-pop for the paired licenses in areas with a population of less than 300,000, \$0.02 per MHz-pop for the paired licenses in areas with a population of at least 300,000 and less than 1,000,000, \$0.05 per MHz-pop for the paired licenses in areas with a population of at least 1,000,000, and \$0.01 per MHz-pop for the unpaired licenses. For all licenses, minimum opening bids will be subject to a minimum of \$1,000 per license.

Two commenters argue the proposed minimum opening bids are too low and propose that the minimum opening bids for the licenses in Auction 113 not be lower than the minimum opening bids of the corresponding licenses in Auction 97. They both argue that lower minimum opening bids in Auction 113 on some licenses, relative to the corresponding minimum opening bids in Auction 97, may result in lower winning bids on those licenses and lower auction revenue.

OEA and WTB are unconvinced by these arguments. As the Commission has recognized in past auctions, minimum opening bids are not intended to be a reflection of final license prices, but instead a starting point for bidding.

The minimum opening bid on a license has less bearing on the final price of the license than it does on the number of rounds required to reach the final price. OEA and WTB also disagree that lower minimum opening bids on some licenses in Auction 113 (relative to Auction 97) will reduce auction revenue, even though other minimum opening bids in Auction 113 are higher (relative to Auction 97). In past auctions, the Commission has recognized that a critical factor in setting minimum opening bids is to not set them above the market clearing price, which is unknown prior to the auction and, if set too high, could result in lower participation and unsold licenses. Another commenter supports this principle, agreeing that the minimum opening bids OEA and WTB adopt will facilitate robust price discovery and participation. OEA and WTB find that the amounts they adopt for Auction 113 balance the competing objectives for minimum opening bids because (1) they are sufficiently low so as not to deter participation or interfere with the price-setting and winner determination mechanisms of the auction, and (2) they are sufficiently high so as not to result in an excessive number of rounds at prices very distant from the final prices and to not permit the licenses to be sold for nominal amounts.

The minimum opening bids that OEA and WTB adopt for the midband AWS-3 spectrum licenses available in Auction 113 are in line with the minimum opening bids that have been set for every recent auction of mid-band spectrum. In Auction 110 for licenses in the 3.45–3.55 GHz band, the minimum opening bids were calculated based on \$0.02 or \$0.06 per MHz-pop, according to the population tiers of the geographic area. In Auction 108 for licenses in the 2.5 GHz band, the minimum opening bids were calculated based on \$0.006 per MHz-pop for all licenses. In Auction 107 for licenses in the 3.7–3.98 GHz band, the minimum opening bids were calculated based on \$0.003, \$0.006 or \$0.03 per MHz-pop, according to the population tiers of the geographic area. In Auction 105 for licenses in the 3.55–3.65 GHz band, the minimum opening bids were calculated based on \$0.02 per MHz-pop for all licenses. Commenters have not presented any evidence that there have been changes to the market conditions for 5G-suitable spectrum that could justify increasing the minimum opening bids for Auction 113 above the range of minimum opening bids found in these four auctions of midband spectrum. OEA and WTB find that this

range of minimum opening bids better reflects current market conditions than the minimum opening bids that were used in Auction 97.

One commenter suggests implementing the use of “adaptive pricing mechanisms” that would decrease minimum opening bids during the auction for licenses that do not receive any bids at the current minimum opening bids. OEA and WTB do not believe that this approach would be helpful to bidders in Auction 113. No commenters submitted evidence demonstrating that the specific minimum opening bids OEA and WTB proposed for Auction 113 are too high. The minimum opening bids OEA and WTB adopt in Auction 113 use a lower dollar-per-MHz-pop basis in areas with lower populations than in areas with higher populations, reducing the risk of licenses in rural areas going unsold. The number of licenses unsold in recent auctions has been relatively small, suggesting that minimum opening bids have not been set inappropriately high. In Auction 110, 0.5% of licenses were not sold; in Auction 108, 1.8% of licenses were not sold; in Auction 107, there were no unsold licenses; and in Auction 105, 8.9% of licenses were not sold. Furthermore, OEA and WTB have concerns that introducing a feature into the bidding system to reduce certain minimum opening bids “for licenses that receive no bids after a defined number of rounds” could introduce additional complexity into bidding strategies and could run counter to the objective of not permitting licenses to be sold for nominal amounts. Therefore, OEA and WTB decline to implement this suggestion.

The minimum opening bids for all licenses offered in Auction 113 are set forth in the Attachment A file on the Auction 113 website at [www.fcc.gov/auction/113](http://www.fcc.gov/auction/113).

### 3. Clock Price Increments

OEA and WTB adopt the procedures regarding clock price increments as described in the *Auction 113 Comment Public Notice*. Therefore, after bidding in the first round and before each subsequent round, for each license, the bidding system will announce the start-of-round price and the clock price for the upcoming round—that is, the lowest price and the highest price at which bidders can submit bids during the round. As long as aggregate demand for the license at the clock price exceeds one, the start-of-round price for the upcoming round will be equal to the clock price from the prior round. If aggregate demand equaled one at a price in the previous round, then the start-of-

round price for the next round will be equal to the price at which demand equaled one. If aggregate demand was zero in the previous round, then the start-of-round price for the next round will remain the same.

OEA and WTB will set the clock price for a license for a round by adding a percentage increment to the start-of-round price. OEA and WTB will set the initial increment percentage at 10%, and OEA may adjust this increment percentage within a range of 5% to 30%, inclusive, in later rounds. To ensure that an increase in the percentage increment does not result in an unduly large increase for a license, the total dollar amount of the increment (the difference between the clock price and the start-of-round price) will be capped at a certain amount. OEA and WTB will set this cap on the increment initially at \$50 million, and OEA may adjust the cap in later rounds. The 5% to 30% increment range and cap will allow us to manage the auction pace and take into account bidders’ needs to reevaluate their bidding strategies while also moving the auction along quickly.

### 4. Bid Types

Under the clock-1 auction format adopted for Auction 113, a bidder will indicate in each round the licenses it demands at the prices associated with the round. A “simple” bid indicates a desired quantity (in this auction, one or zero) at a price. In the first round, a bidder indicates the licenses it demands at the minimum opening bids by indicating a quantity of one for each of those licenses. After the first round, a bidder that wants to maintain the same processed demand for a license at the new clock price would submit a bid for the license at the clock price, indicating that it is willing to pay up to that price, if need be, for the license. A bid to maintain the same processed demand cannot be at a price less than the clock price.

OEA and WTB will not permit a “switch” bid to reduce demand for one license in a market and increase demand for another license in the same market in Auction 113. OEA and WTB did not receive any comments on this issue. The inventory of licenses for Auction 113 contains only one market in which there are multiple licenses that may be considered similar, thus the additional bidding and system complexity necessary to permit switch bidding in this market is not worthwhile. A bidder that wants to bid on both licenses within the market that has two licenses could bid on these two licenses separately.

## 5. Intra-Round Bids

After the first round, bids to change demand can be made at prices between the start-of-round price and the clock price. These are known as intra-round bids. A bidder will be permitted to make intra-round bids by indicating the quantity it demands for the license (in this auction, one or zero) and a price between the start-of-round price and the clock price at which it wants to change its demand. For example, if a bidder has processed demand for a license at the start-of-round price of \$200, but no longer wants the license if the price increases by more than \$10, the bidder would indicate a bid quantity of zero at a price of \$210. Similarly, if the bidder wishes to reduce its demand to zero if the price increases at all above \$200, the bidder would indicate a bid quantity of zero at the start-of-round price of \$200.

Permitting intra-round bids allows the bidding system to use relatively large clock price increments, because bidders can submit bids at prices lower than the clock prices. This may reduce the number of rounds in the auction without increasing the risk that a large clock price increment will prevent the auction from accurately determining the market clearing price, at which only one bidder demands the license.

Intra-round bid amounts will be limited to multiples of \$10 for prices below \$10,000; to multiples of \$100 for prices between \$10,000 and \$100,000, inclusive; and to multiples of \$1,000 for prices above \$100,000. OEA and WTB limit intra-round bids to these multiples to deter anti-competitive strategic bidding.

## 6. Proxy Bids

OEA and WTB adopt their proposal, which is supported by the record, to make proxy bidding an option available to bidders in Auction 113. In the first round, a bidder may submit a proxy instruction to the bidding system for any license for which it submits a bid in the first round. After the first round, a bidder may submit a proxy instruction to the bidding system for any license for which it has processed demand. A proxy instruction for a license must indicate a reduction in demand for the license to zero at a price higher than the current round's clock price. Proxy instructions to increase a bidder's demand for a license at a given price will not be permitted.

Under the procedures OEA and WTB adopt here, if a proxy instruction has been submitted, the bidding system will automatically submit a proxy bid to maintain the bidder's demand for the license in every subsequent round as

long as the clock price for the round is less than the proxy instruction price. In the first round in which the clock price is greater than or equal to the proxy instruction price, the bidding system will submit a proxy bid on behalf of the bidder to reduce the bidder's demand for that license to zero at the proxy instruction price. For example, if a bidder has processed demand for a license with a clock price of \$1,000, and the bidder is willing to purchase the license for a price up to \$1,800, the bidder could submit a proxy instruction to reduce its demand for the license to 0 at \$1,800. In that case, the bidding system will submit proxy bids to maintain the bidder's demand for the license in each subsequent round as long as the clock price is less than \$1,800. In a round in which the clock price is above \$1,800, the bidding system will submit a proxy bid to reduce the bidder's demand for the license to zero at the price of \$1,800.

In the case that a bid to reduce demand, whether placed according to proxy instructions or submitted by the bidder in the round, is not applied during bid processing, the bidding system will automatically generate a proxy instruction at the bid price and, in the following rounds, submit proxy bids on behalf of the bidder according to that proxy instruction. For example, suppose that the start-of-round price for a license is \$10,000, the clock price is \$12,000, and a bidder with processed demand for the license submits a bid to reduce its demand to 0 at price \$11,500. If the bid is not applied during bid processing (e.g., because there were no other bids for the license in the round), in the following round the bidding system will submit a proxy bid on behalf of the bidder to reduce demand for the license to 0 at price \$11,500. The proxy instruction preserves in the bidding system the bidder's interest in retaining demand for the license only if the price is no higher than \$11,500, which may help avoid having the license sold later in the auction to another bidder at a price less than what the initial bidder would be willing to pay.

In any round, a bidder can remove or modify any existing proxy instructions or proxy bids for the round by submitting new bids through the user interface or file upload. The system will take the last bid submission as that bidder's bids and proxy instructions. Bidders are reminded that any bids submitted through an upload will replace all bids and proxy instructions previously submitted.

As is the case for intra-round bid amounts, proxy instruction prices will

be limited to multiples of \$10 for prices below \$10,000; to multiples of \$100 for prices between \$10,000 and \$100,000, inclusive; and to multiples of \$1,000 for prices above \$100,000. Proxy instructions will not be publicly released either during or after the auction.

Commenters agree that proxy bidding as proposed in the *Auction 113 Comment Public Notice* alleviates the burden and resources required to monitor a multiple-round auction. One commenter states that proxy bidding will also promote more efficient auction outcomes by reducing the risk of erroneous bids and allowing for more efficient use of bidder resources. Another commenter supports allowing proxy bidding, but suggests that OEA and WTB consider introducing conditional proxy bid increases in demand to allow a bidder to instruct the bidding system to bid on an additional license if its price falls below a certain level, claiming this approach would help bidders navigate the complexities of managing multiple licenses.

OEA and WTB conclude that adopting this commenter's proposal is unnecessary in an ascending clock auction because the posted prices and start-of-round prices never decrease from one round to the next. In the ascending clock auction managing substitutions between multiple licenses is already possible, for instance, by placing a bid to decrease demand on one license, and, if the bid to reduce demand is processed, placing a bid to increase demand for another license that has the same or fewer bidding units as the former license. This type of substitution does not require a proxy bid to increase demand. Proxy bids are not intended to relieve bidders of their responsibility to manage their bidding eligibility or to actively follow round-to-round changes in prices and aggregate demand. Furthermore, in the ascending clock auction, once a bidder has processed demand for a license, the bidder cannot ensure or guarantee that it will not win the license when the auction closes. Similarly, a bidder cannot ensure or guarantee that the price of a license will not continue to rise in future rounds, or that the relative price of a license compared to another license will not change in future rounds.

## 7. Missing Bids

Under the clock-1 auction format, if a bidder does not submit bids in the current round for all of the licenses for which it had processed demand in the previous round and does not have proxy instructions in place, the bidding system will consider those licenses to

have missing bids. Missing bids are treated by the bidding system as requests to reduce demand to zero at the start-of-round prices for the licenses with missing bids. If these requests are applied, then a bidder's bidding activity, and its bidding eligibility for the next round, may be reduced. A bidder can avoid having missing bids by either indicating its demand in every round or by entering appropriate proxy instructions.

### G. Bid Processing

OEA and WTB adopt bid processing procedures that the bidding system will use after each round of bidding to process bids to change demand, to determine the *processed demand* of each bidder for each license, and to determine the *posted price* for each license that will serve as the start-of-round price for the next round. Bids to maintain demand will always be applied by the bidding system during bid processing.

#### 1. No Excess Supply Rule for Bids To Reduce Demand

Under the clock-1 auction format, the bidding system will not allow a bidder to reduce its demand for a license if the reduction would cause aggregate demand to fall below one (the "no excess supply" rule). Therefore, if a bidder submits a bid to reduce its demand from one to zero for a license if the price should increase above the price in its bid, the bidding system will treat the bid as a request to reduce demand that will be applied only if the no excess supply rule would be satisfied.

OEA and WTB adopt the no excess supply rule for Auction 113. The no excess supply rule has been integral to the success of the clock auction since the clock auction was introduced at the Commission in the Broadcast Incentive Auction. One commenter proposes to introduce exceptions to the no excess supply rule, claiming it has created barriers for bidders in past auctions, but provides no examples to support this claim, which is counterintuitive on its face. The purpose of not allowing the use of withdrawals and proactive waivers in a clock auction is to reduce complexity and uncertainty about bidder demand for spectrum. The clock auction relies on identifying the point at which demand decreases to equal supply to determine prices. Allowing withdrawals, proactive waivers, or exceptions to the no excess supply rule would create uncertainty with respect to the exact level of bidder demand and would interfere with the basic clock price-setting and winner determination

mechanism. The no excess supply rule ensures that once there is demand for a license that the license will not then go unsold. The no excess supply rule makes it risky or costly for a bidder to engage in gamesmanship by increasing its demand for a license in one round, potentially causing the price of the license to increase for another bidder, and then reducing its demand for the license in a subsequent round. OEA and WTB agree that they should not introduce exceptions that are contrary to the underlying purpose of the rules, which is to protect the integrity of the auction.

#### 2. Eligibility Rule for Bids To Increase Demand

The bidding system will not allow a bidder to increase its demand for a license if the total number of bidding units associated with all of the bidder's license demands exceeds the bidder's eligibility for the round. Therefore, if a bidder submits a bid to add a license for which it did not have processed demand in the previous round, the bidding system will treat the bid as a request to increase demand that will be applied only if it would not cause the bidder's processed activity to exceed its eligibility.

#### 3. Processed Demand

OEA and WTB adopt the procedures described in the *Auction 113 Comment Public Notice* to determine the order in which the bidding system will process bids after a round ends. After a round ends, the bidding system will first consider and apply all bids to maintain demand at the clock price, and then it will process bids to change demand in order of price point, where the price point represents the percentage of the distance between the bid price and the start-of-round price, relative to the distance between the clock price and the start-of-round price. The bidding system will process bids to change demand in ascending order of price point across all licenses and all bidders, first by considering intra-round bids in order of price point and then, finally, bids at the clock price (*i.e.*, bids with a price point equal to 100%). As it considers each submitted bid during bid processing, the bidding system will determine whether there is excess demand for a license at that point in the processing in order to determine whether a bidder's request to reduce demand for that license can be applied. Likewise, the bidding system will evaluate the activity associated with the bidder's most recently determined demands at that point in the processing

to determine whether a request to increase demand can be applied.

If a bid can be applied, the licenses that the bidder holds at that point in the processing would be adjusted, and aggregate demand for the license would be recalculated accordingly. If the bid cannot be applied, the unfulfilled bid will be held in a queue, to be considered later during the current round's bid processing. The bidding system will then consider the bid submitted at the next lowest price point, and given the most recently determined demands of bidders, see if the bid can be applied. Note that the price point at which a bid is considered by the bidding system can affect whether the bid is applied, because at any given price point some bidders may request to increase demand for licenses while others may request reductions.

Every time a bid is applied, the unfulfilled bids held in the queue will be reconsidered, in the order of their price points. Bids that were not applied because demand would fall below one or because the bidder's processed activity would exceed its eligibility will be considered, again in price point order, if there should be excess demand or if the bidder's processed activity is reduced sufficiently later in the processing after other bids are processed.

This step of bid processing will conclude when all bids from the round have been processed and no unfulfilled bids held in the queue can be applied. The bidding system will then automatically generate a proxy instruction for each bid to reduce demand that was not applied. However, the bidding system will not carry over to the next round unfulfilled bid requests to increase demand. The bidding system will advise bidders about whether their bids were applied when round results are released.

#### 4. Price Determination

As described in the *Auction 113 Comment Public Notice*, the bidding system further will determine, based on aggregate demand, the posted price for each license for the round, with a license's posted price serving as its start-of-round price for the next round. The price for a license will increase from round to round as long as there is excess demand for the license, but will not increase if either no bidder demands the license or if only a single bidder demands the license.

If, at the end of a round, aggregate demand for a license exceeds the supply of one, the posted price will equal the clock price for the round. If a reduction in demand was applied during the

round and caused demand for a license to fall to one, the posted price will be the highest price at which a reduction was applied for that license. If aggregate demand is zero, or if aggregate demand is one and no bid to reduce demand was applied for the license, then the posted price will equal the start-of-round price for the round. The range of acceptable bid amounts for the next round will be set by adding the percentage increment to the posted price.

Under the clock-1 auction format, if a bid to reduce demand is not applied, it is because there is no excess demand for the license and, therefore, the posted price will not increase. Hence, the posted price for a license will not be higher than the bid price of a bidder that makes a bid to reduce demand that cannot be applied.

After the bids of the round have been processed, if the stopping rule has not been met, the bidding system will announce clock prices to indicate a range of acceptable bids for the next round. Each bidder will be informed of the licenses for which it has processed demand and of the aggregate demand for each license.

#### 5. Caps on Bidding Credits

Eligible applicants claiming either a small business or rural service provider bidding credit will be subject to specified caps on the total bidding credit discount that they may receive. For Auction 113, OEA and WTB adopt the bidding credit caps at the amounts proposed for the reasons discussed in the *Auction 113 Comment Public Notice*. Specifically, OEA and WTB adopt a \$25 million cap on the total bidding credit discount that may be awarded to an eligible small business, and a \$10 million cap on the total bidding credit discount that may be awarded to an eligible rural service provider in Auction 113. Additionally, to create parity among eligible small businesses and rural service providers competing against each other in smaller markets, no winning designated entity bidder may receive more than \$10 million in bidding credit discounts in total for licenses won in markets with a population of 500,000 or fewer.

Two commenters argue against adopting bidding credit caps in Auction 113. The Commission's part 1 rules, however, require a cap on a winning bid discount that will be offered to small businesses and rural service providers. See 47 CFR 1.2110(f)(2)(ii), (4)(ii). Amendments to those rules require a rulemaking proceeding and cannot be done in the context of establishing the procedures for Auction 113 because

such action is outside the scope of OEA's and WTB's delegated authority.

The record supports adopting the small business bidding credit cap and rural service bidding credit cap for Auction 113 at the amounts proposed, and OEA and WTB find this consistent with the Commission's decisions in recent spectrum auctions. In the 2015 *Updating Part 1 Report and Order*, the Commission adopted small business and rural service provider bidding credit caps and established the parameters for implementing such bidding credit caps in a given auction based on an evaluation of the expected capital requirements presented by the specific service and the inventory of licenses to be auctioned. The Commission's rules provide for a small business bidding credit cap of not less than \$25 million and a rural service provider bidding credit of not less than \$10 million, to be determined on an auction-by-auction basis.

Under the parameters established in the 2015 *Updating Part 1 Report Order*, OEA and WTB find that a \$25 million small business bidding credit cap for Auction 113 is appropriate because this is an auction of a limited number of AWS-3 licenses and the expected capital requirements associated with these AWS-3 licenses are not likely to be any higher than those for bands where OEA and WTB adopted the same \$25 million cap, given that many providers have already cleared, standardized, deployed, and offer service using other licenses in the same bands.

Some commenters disagree with this approach. One commenter, for example, proposes that the Commission increase the bidding credit caps to account for inflation, noting that a decade has passed since Auction 97 and, "according to the Bureau of Labor Statistics, \$25 million in November 2014 dollars would be worth more than \$33 million today." However, recent auction data demonstrate that a \$25 million cap on small business bidding credits has allowed a substantial majority of eligible small businesses to take advantage of the bidding credit program and be unaffected by the cap. Whatever the impact of inflation generally, OEA and WTB see no persuasive evidence that a \$25 million cap would impair the meaningful opportunity that the bidding credit provides for small businesses to participate in Auction 113.

One commenter argues that, in proposing to apply a \$25 million small business bidding credit cap, the "lens through which [OEA and WTB view] small business participation in Auction

113" is "out of focus" and OEA and WTB should instead draw on the results of Auction 97 to assess the capital requirements for Auction 113. This commenter reasons that the Auction 97 results demonstrate that a \$25 million small business bidding credit cap is "untenable," because Northstar Wireless, LLC (Northstar) and SNR Wireless LicenseCo, LLC (SNR) placed \$3.4 billion in winning bids for 197 of the licenses available in Auction 113, with the expectation that they would be eligible for \$859 million in bidding credits. OEA and WTB find this argument meritless inasmuch as the Commission's very purpose in requiring the implementation of a minimum small business bidding credit cap in all auctions that offer such a credit is to safeguard against the use of bidding credits by entities that are not *bona fide* small businesses, such as the applicants that were denied bidding credits in Auction 97. The fact that a bidder claiming eligibility for bidding credits in Auction 97 could have bid with an expectation of receiving close to \$1 billion in bidding discounts, as Northstar and SNR did, illustrates why the Commission established a cap on bidding credits that is reasonably proportional to the capital expenditures for spectrum licenses likely needed by *bona fide* small businesses, as well as the appropriateness of the caps set in the Commission's most recent auctions. Moreover, applying a reasonable bidding credit cap in Auction 97 such as the one OEA and WTB adopt for Auction 113 would have substantially lessened the financial impact of SNR's and Northstar's being found ineligible for the bidding credits that they claimed, and perhaps they would not have had the incentive to bid, in aggregate, so much more than they were ultimately willing to pay. As the Commission concluded in the 2015 *Updating Part 1 Report Order*, a \$25 million bidding credit cap provides a significant benefit to the vast majority of *bona fide* small businesses that may participate in Auction 113, particularly since applying the cap would allow a bidder eligible for a 25% discount to receive that discount on gross bids of up to \$100 million.

Nor are OEA and WTB persuaded by a commenter's proposal to introduce more complex bidding credit caps such as regional bidding credit caps that are a function of regional spectrum values, population density, median income, or broadband access disparities. Because the \$25 million bidding credit cap in recent auctions allowed the substantial majority of small business to realize the

full value of their bidding credit based on their gross winning bid amounts, OEA and WTB find it unnecessary to introduce other bidding credit caps in some regions that would increase complexity, make it more likely that a small business would be limited by some regional cap, and could create issues for bidders and the bidding system as a result of regional borders.

Based on the Commission's experience in its spectrum auctions, OEA and WTB also find a \$10 million rural service provider bidding credit cap is appropriate because, as the Commission explained in the 2015 *Updating Part 1 Report and Order*, a rural service provider's approach to bidding is generally more targeted and usually focuses on competing for a few select license areas that align with its existing service territory or adjacent areas.

Lastly, OEA and WTB find that a \$10 million cap on the overall bidding credit amount that any winning small business bidder may apply to licenses won in small markets is appropriate based on the Commission's conclusions in the 2015 *Updating Part 1 Report and Order*. This is consistent with the approach adopted in all of the Commission's spectrum actions beginning with the Broadcast Incentive Auction and strikes a measured and reasonable balance to protect against abuse of the designated entity program while also allowing large designated entities a higher cap in large service areas. One commenter proposes that rather than capping the bidding credits used by a designated entity for particular small markets based on population, OEA and WTB cap the bidding credits for rural service providers at the same level as that for small businesses. After considering the purpose and benefits of a rural service provider bidding credit, the Commission concluded in the 2015 *Updating Part 1 Report and Order* that rural service providers did not warrant as high a bidding credit as other designated entities. Given the different nature of their business plans and financial resources, it concluded that different bidding credit caps, and the methodology for implementing them in the Broadcast Incentive Auction, were warranted for small businesses and rural service providers. These different caps have been maintained for auctions subsequent to the Broadcast Incentive Auction. This commenter provides no evidence to support a finding that a different conclusion would be appropriate with respect to the AWS-3 licenses remaining in the Commission's spectrum inventory.

OEA and WTB conclude that the adoption of these caps on the overall amount of bidding credits offered in Auction 113 serves the Commission's statutory goals by awarding meaningful opportunities to *bona fide* small businesses and eligible rural service providers, while preventing unjust enrichment and ensuring efficient and intensive use of spectrum. Notably, by adopting these caps for Auction 113, OEA and WTB will provide an important additional safeguard, as the Commission intended, to prevent ineligible entities from undercutting the Commission's rules in a manner similar to circumstances of Auction 97. This approach is simple and straightforward to implement and will not impose an artificial restriction on the amount eligible small businesses and rural service providers are likely to bid.

#### 6. Winning Bids

Under the clock-1 auction format, a bidder with processed demand for a license at the time the stopping rule is met will become the winning bidder for the license. The final price for a license will be the posted price for the final round.

#### VI. Post-Auction Procedures

The public notice announcing the close of the bidding and auction results will be released within several days after bidding has ended in Auction 113. This public notice will also establish the deadlines for submitting down payments, final payments, and the long-form applications (FCC Form 601) for the auction.

##### A. Down Payments

The Commission's rules provide that, unless otherwise specified by public notice, within 10 business days after the release of the auction closing public notice for Auction 113, 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 to 20% of the net amount of its winning bids (less any bidding credits, if applicable).

##### B. Final Payments

The Commission's rules provide that each winning bidder must submit the balance of the net amount for each of its winning bids within 10 business days after the deadline for submitting down payments.

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

The Commission's rules provide that, within 10 business days after release of the auction closing public notice,

winning bidders must electronically submit a properly completed post-auction long-form application (FCC Form 601), including the applicable filing fee prescribed in 47 CFR 1.1102, for the license(s) they won through the auction.

A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility for the bidding credit sought in its FCC Form 601. Further instructions on these and other filing requirements will be provided to winning bidders in the auction closing public notice for Auction 113.

A winning bidder will also be required to provide as part of its long-form application any agreement or arrangement it has entered into and a summary of the specific terms, conditions, and parties involved in any agreement it has entered into. This applies to any bidding consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure. Failure to comply with the Commission's rules can result in enforcement action.

A winning bidder organized as bidding consortium must comply with the long-form application procedures set forth in 47 CFR 1.2107(g). Specifically, license(s) won by a consortium must be applied for as follows: (a) an individual member of the consortium or a new legal entity comprising two or more individual consortium members must file for licenses covered by the winning bids; (b) each member or group of members of a winning consortium seeking separate licenses will be required to file a separate FCC Form 601 for its/their respective license(s) in their legal business name; (c) in the case of a license to be partitioned or disaggregated, the member or group filing the applicable FCC Form 601 shall include the parties' partitioning or disaggregation agreement with the FCC Form 601; and (d) if a designated entity credit is sought (either small business or rural service provider), the applicant must meet the applicable eligibility requirements in the Commission's rules for the credit.

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

Within 10 business days after the release of the *Auction 113 Closing Public Notice*, each winning bidder must also comply with the ownership reporting requirements in 47 CFR 1.913, 1.919, and 1.2112 by submitting an

ownership disclosure information report for wireless telecommunications services (FCC Form 602) with its FCC Form 601.

If a winning bidder already has a complete and accurate FCC Form 602 on file in the FCC's Universal Licensing System (ULS), then it is not necessary to file a new report, but the winning bidder must certify in its FCC Form 601 that the information on file with the Commission is complete and accurate. If the winning bidder does not have an FCC Form 602 on file, or if the form on file is not complete and accurate, then the winning bidder must submit a new one.

When a winning bidder submits an FCC Form 175, ULS automatically creates an ownership record. This record is not an FCC Form 602, but it may be used to pre-fill the FCC Form 602 with the ownership information submitted on the winning bidder's FCC Form 175 application. A winning bidder must review the pre-filled information and confirm that it is complete and accurate as of the filing date of the FCC Form 601 before certifying and submitting the FCC Form 602. Further instructions will be provided to winning bidders in the *Auction 113 Closing Public Notice*.

#### *E. Tribal Lands Bidding Credit*

A winning bidder that intends to use its license(s) to deploy facilities and provide services to qualifying Tribal lands that have a wireline penetration rate equal to or below 85% may be eligible to receive a Tribal lands bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A Tribal lands bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

Unlike other bidding credits that are requested prior to an auction, a winning bidder applies for a Tribal lands bidding credit after the auction when it files its FCC Form 601. When initially filing its FCC Form 601, the winning bidder will be required to advise the Commission whether it intends to seek a Tribal lands bidding credit, for each license won in a particular auction, by checking the designated box(es). After stating its intent to seek a Tribal lands bidding credit, the winning bidder will have 180 days from the close of the applicable long-form application filing deadline within which to amend its application to select the specific qualifying Tribal lands to be served and provide the required Tribal government certifications. A licensee receiving a Tribal lands bidding credit is subject to performance criteria as set forth in 47 CFR 1.2110(f)(3)(vii). For additional

information on the Tribal lands bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rulemaking proceeding regarding Tribal lands bidding credits and related public notices.

#### *F. Default and Disqualification*

Any winning bidder that defaults or is disqualified after the close of an auction (*i.e.*, fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make a full and timely final payment, or is otherwise disqualified) is liable for default payments as described in 47 CFR 1.2104(g)(2). A default payment consists of a deficiency payment, equal to the difference between the amount of the bidder's winning bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

The Commission's rules provide that, in advance of each auction, it will establish a percentage between 3% and 20% of the applicable winning bid to be assessed as an additional default payment. As the Commission has indicated, the level of this additional payment in each auction will be based on the nature of the service and the licenses being offered. In the *Auction 113 Comment Public Notice*, OEA and WTB proposed to set the additional default payment for Auction 113 at 15% of the applicable bid for winning bids. One commenter, however, opposes the proposed 15% additional default payment percentage, arguing instead that OEA and WTB should implement the maximum default payment percentage of 20% to ensure that defaults that occurred in Auction 97 are not repeated. Another commenter opposes this request, claiming that it is designed to discourage competitor participation in Auction 113.

As the Commission has previously emphasized, defaults weaken the integrity of the auction process and may impede the deployment of service to the public. Due to prior defaults, the AWS-3 spectrum being offered in Auction 113 has been in the Commission's inventory for a full decade after it was first offered in Auction 97. OEA and WTB therefore agree that it is important to take steps to minimize the chance of defaults on winning bids in this auction. OEA and WTB disagree with the assertion that implementing a 20% additional default payment would serve only to discourage participation in the auction. This

commenter does not explain how adopting a higher additional default payment to discourage insincere bidding and defaults by bidders who are unable to pay their full bid amount would discourage bidding by sincere bidders who have adequate financing to pay their full bids. And in any case, whatever deterrent effect the higher default payment amount may or may not have would be outweighed by the public interest in encouraging only sincere bidding. OEA and WTB conclude that a higher additional default payment will be more effective in deterring defaults in Auction 113 and therefore adopt the maximum additional default payment percentage of 20% for this auction.

Finally, in the event of a default, the Commission has the discretion to re-auction the license or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, then the Commission may declare the applicant and its principals ineligible to bid in future auctions and may take any other action that it deems necessary, including institution of proceedings to revoke any existing authorizations held by the applicant.

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

If a bidder is due a refund, the bidder must request a refund in writing with the information listed below. All refunds of upfront payment balances will be returned to the payer of record as identified on the FCC Form 159, or on the wire transfer, unless the payer submits written authorization instructing otherwise. Bidders are encouraged to use the Refund icon found in the *Review or Modify Existing Applications* table on the *FRN Selection* screen or the Refund Form link available on the *Auction Application Submit Confirmation* page in the AAP to access the form. After the required information is completed on the blank form, the form should be printed and signed, and submitted to the Commission by fax or email.

If you have elected not to access the Refund Form, the Commission is requesting that all of the following information be supplied in writing:

Name, address, contact and phone number of Bank  
ABA Number (capable to accept ACH payments)  
Account Number to Credit  
Name of Account Holder  
FCC Registration Number (FRN)



All refund requests must be submitted by fax to the Revenue & Receivables Operations Group/Auctions at (202) 418–2843, or by email to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov).

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Scott Radcliffe at (202) 418–7518 or Theresa Meeks at (202) 418–2945.

## VII. Procedural Matters

### A. Paperwork Reduction Act Analysis

The Office of Management and Budget (OMB) has approved the information collections in the Application to Participate in an FCC Auction, FCC Form 175. The *Auction 113 Procedures Public Notice* does not contain new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. The Commission will be submitting a non-substantive change request to OMB concerning OMB 3060–0600 related to the certification requirement and the acknowledgment statement for Auction 113 applicants adopted in the *Auction 113 Procedures Public Notice*, and the Commission will not require Auction 113 applicants to make this certification or submit the acknowledgement statement in FCC Form 175 until OMB has approved the non-substantive change request.

### B. Congressional Review Act

The Commission has determined, and Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Auction 113 Procedures Public Notice* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

### C. Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), OEA and WTB incorporated a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) in the *Auction 113 Comment Public Notice* released in March 2025. OEA and WTB sought written public comment on the proposals in the *Auction 113 Comment Public Notice*, including comments on the

Supplemental IRFA. The comments received on the Supplemental IRFA are addressed below. The *Auction 113 Procedures Public Notice* establishes the procedures to be used for Auction 113. This Final Regulatory Flexibility Analysis (FRFA) reflects actions taken in the *Auction 113 Procedures Public Notice*, and supplements the Final Regulatory Flexibility Analyses completed by the Commission in the 2014 AWS–3 Report and Order, the 2025 AWS–3 Report and Order, and other Commission orders pursuant to which Auction 113 will be conducted. This FRFA conforms to the RFA, and it (or summaries thereof) will be published in the **Federal Register**.

*Need for, and Objectives of, the Rules.* The *Auction 113 Procedures Public Notice* resolves all open issues, and addresses comments filed in response to the *Auction 113 Comment Public Notice*. The licenses in Auction 113 are being offered pursuant to the Spectrum and Secure Technology and Innovations Act, which directs the Commission to initiate a system of competitive bidding to grant licenses for spectrum in its inventory in the AWS–3 spectrum bands. The *Auction 113 Procedures Public Notice* implements auction procedures for those entities that seek to bid in Auction 113 to acquire geographic-based licenses in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands (collectively, the AWS–3 bands). The *Auction 113 Procedures Public Notice* adopts procedural rules and terms and conditions governing Auction 113, and the post-auction application and payment processes, as well as sets the minimum opening bid amounts for licenses in the AWS–3 bands that will be offered in Auction 113.

To promote the efficient and fair administration of the competitive bidding process for all Auction 113 participants, including small entities, OEA and WTB adopt the following procedures for Auction 113:

- A requirement that any applicant seeking to participate in Auction 113 certify in its short-form application, under penalty of perjury, that it has read the public notice adopting procedures for Auction 113 and that it has familiarized itself with those procedures and the requirements for a license and operating facilities in the AWS–3 bands;
- A requirement that any applicant seeking to bid in the 1755–1780 MHz submit a signed statement with its short-form application acknowledging that the applicant’s operations in the 1755–1780 MHz band may be subject to interference from Federal systems in certain geographic zones, that the

applicant must accept interference from such Federal systems in those zones, and that the applicant has considered these risks before submitting any bids for applicable licenses in Auction 113;

- Identification of AT&T, T-Mobile, and Verizon as nationwide providers for the purpose of implementing the competitive bidding rules in Auction 113, including 47 CFR 1.2105(c), the rule prohibiting certain communications;

- Use of anonymous bidding/limited information procedures, under which OEA and WTB will not make the following information public until after bidding has closed: (1) the licenses that an applicant selects for bidding in its short-form application (FCC Form 175); (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 113; (3) any applicant’s bidding eligibility; and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid;

- Establishment of bidding credit caps for eligible small businesses in Auction 113;

- Establishment of bidding credit caps for eligible rural service providers in Auction 113;

- Use of a clock auction format (clock-1) with a supply of one for Auction 113 under which each qualified bidder will indicate in successive clock bidding rounds its demand for licenses at the prices associated with the current round;

- Use of a simultaneous stopping rule for Auction 113, under which all licenses remain available for bidding until no license has excess demand;

- Establishment of a specific minimum opening bid for each license available in Auction 113 based on \$0.01 per MHz-pop for the paired licenses in areas with a population of less than 300,000, \$0.02 per MHz-pop for the paired licenses in areas with a population of at least 300,000 and less than 1,000,000, \$0.05 per MHz-pop for the paired licenses in areas with a population of at least 1,000,000, and \$0.01 per MHz-pop for the unpaired licenses, with a minimum opening bid of \$1,000 per license;

- A specific upfront payment amount for each license available in Auction 113;

- Establishment of a bidder’s initial bidding eligibility in bidding units based on that bidder’s upfront payment through assignment of a specific number of bidding units for each license;

- Provision of delegated authority to OEA, in conjunction with WTB, to exercise its discretion to delay, suspend, or cancel bidding in Auction 113 for any reason that affects the ability of the

competitive bidding process to be conducted fairly and efficiently;

- Retention by OEA of discretion to adjust the bidding schedule in order to manage the pace of Auction 113;
- Use of information procedures which would make public after each round of Auction 113, for each license, the aggregate demand, the posted price of the last completed round, and the clock price for the next round;
- Use of an activity rule that would require bidders to be active on between 90% and 100% of their bidding eligibility in all clock rounds, with the initial activity requirement percentage set at 95%, and with OEA retaining discretion to change the activity requirement percentage during the auction;
- Establishment of acceptable bid amounts, including clock price increments and intra-round bids, along with a proposed methodology for calculating such amounts;
- An option to permit a bidder to submit a proxy instruction to reduce its demand for a license to zero at a price higher than the current round's clock price and a requirement that bidders indicate their demand in every round or submit appropriate proxy instructions;
- Establishment of a methodology for processing bids and requests to reduce and increase demand subject to the no excess supply rule for bids to reduce demand and the eligibility rule for bids to increase demand; and
- Establishment of an additional default payment of 20% under 47 CFR 1.2104(g)(2) of the rules in the event that a winning bidder defaults or is disqualified after the auction.

The procedures for the conduct of Auction 113 constitute the more specific implementation of the competitive bidding rules contemplated by 47 CFR parts 1 and 27, and the underlying rulemaking orders, including the *2014 AWS-3 Report and Order*, the *2025 AWS-3 Report and Order*, and relevant competitive bidding orders, and are fully consistent therewith.

*Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) and provide a detailed statement of any changes made to the proposed procedures as a result of those comments. The Chief Counsel did not file any comments in response to the procedures that were proposed in the *Auction 113 Comment Public Notice*.

*Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* The only party that filed comments directly in response to the Supplemental IRFA contends that the Commission's definition of "small entities" used in the Supplemental IRFA "may unintentionally exclude businesses in high-cost urban markets" because "while these businesses fall outside the thresholds for 'small entities,' they often face challenges similar to those in rural areas, such as high operational costs and limited resources." That commenter suggests that the Commission "reevaluate its small entity criteria by considering factors like regional cost variations and market-specific metrics (e.g., population density, median income, broadband access) . . . [to] better align with [47 U.S.C.] 309(j)(3)(B)'s goal of promoting diverse participation and equitable access to spectrum," and notes that the Supplemental IRFA highlights the compliance burdens that Auction 113 could impose and suggests that a more detailed analysis of these costs—broken down by market type or industry—would help uncover the unique challenges small businesses in underserved markets face. That commenter submits that providing tools such as reporting templates, compliance checklists, and cost estimation guides would further support small entities, reduce administrative burdens, and enable broader participation in Auction 113.

Other parties filed comments relating to small entities in response to the proposals in the *Auction 113 Comment Public Notice*. Two parties advocate that licenses for AWS-3 spectrum should be offered in smaller licensing areas in Auction 113, with one of these parties specifically asserting that small businesses would benefit from changing the geographic area of Block G to offering licenses at a county level rather than the CMA level. Several parties opposed the request to change the geographic area size of Block G from CMAs to counties. Some commenters oppose any amendments to small business bidding credits in effect for Auction 97 for Auction 113. In these comments, there were two prevailing themes of discussion: (1) the application of the 47 CFR part 1, subpart Q small business bidding rules in effect for Auction 97, and (2) the proposal for a \$25 million bidding credit cap for Auction 113. Regarding the application of 47 CFR part 1, subpart Q small business bidding rules, two parties specifically advocate for applying the 47 CFR part 1, subpart Q designated entity

rules in effect for Auction 97 in Auction 113 because they contend that any rule changes will be to the detriment of small businesses, amongst other concerns unrelated to small businesses. Regarding the proposal to apply a \$25 million small business bidding credit cap in Auction 113, all parties commenting on the proposal oppose it. All of these parties oppose any bidding credit cap, however, one of these parties advocates for an increase of the bidding credit cap to \$33 million in order to adjust the bidding credit cap to account for inflation if bidding credit caps are adopted for Auction 113. Additionally, one party opposes the proposed 95% activity level to retain full eligibility, because although it encourages active participation, it may unintentionally exclude less experienced bidders and small entities that lack the resources to engage dynamically in every round.

*Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "Small organization, and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act (SBA). A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes three broad groups of small entities that could be directly affected by its actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant in their field. While the Commission does not have data regarding the number of non-profits that meet that

criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The procedures adopted in the *Auction 113 Procedures Public Notice*

will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. The NAICS is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. See [www.census.gov/NAICS](http://www.census.gov/NAICS) for further details regarding the NAICS codes. The

size standards in Table 1 are set forth in 13 CFR 121.201, by six digit NAICS code. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, OEA and WTB conclude that the adopted procedures will impact a substantial number of small entities. Where available, OEA and WTB also provide additional information regarding the number of potentially affected entities in the industries identified in Tables 1 and 2.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (NAICS classification)	NAICS code	SBA size standard	Total firms	Small firms	% Small firms in industry
Satellite Telecommunications .....	517410	\$47 million .....	275	242	88.00
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees .....	2,893	2,837	98.06

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal Service Monitoring Report Telecommunications Service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
	Total number FCC Form 499A filers	Small firms	% Small entities
Affected entity			
Wireless Telecommunications Carriers (except Satellite) .....	585	498	85.13

*Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities.* The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. The Commission designed the auction application process to minimize reporting and compliance requirements for small entities and other applicants, and the *Auction 113 Procedures Public Notice* reflects its efforts to remain consistent with this approach. In the first part of the Commission’s two-phased auction application process, parties desiring to participate in an auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications, and to having reviewed the *Auction 113 Procedures Public Notice*. Eligibility to participate in bidding is based on an applicant’s short-form application and certifications, as well as remittance of a timely and sufficient upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-

form application. Thus, an applicant that fails to become a winning bidder does not need to file a long-form application or provide the additional showings and more detailed demonstrations required of a winning bidder, thereby saving small entities and other applicants the time and expense associated with unnecessary filings.

Applicants that wish to participate in Auction 113 are required to certify that they have read the *Auction 113 Procedures Public Notice* and the procedures adopted herein, and are also familiar with the procedures and requirements for obtaining a license and operating facilities in the AWS–3 bands. The certification requirement allows applicants to educate themselves about the procedures for participation in Auction 113, as well as their obligation to stay abreast of relevant information before bidding in Auction 113 begins, and throughout the entire Auction 113 process. Adoption of this requirement may help small entities and other applicants avoid, among other things, rule violations or technical errors that could prevent them from becoming a qualified bidder or obtaining a license after placing a winning bid. Moreover, as discussed below, the Commission makes available to potential and actual participants, at no cost, a variety of information, resources, and guidance,

including interactive, online tutorials and technical guides. The requirement that applicants certify that they have read the *Auction 113 Procedures Public Notice* and are familiar with the procedures and requirements for the auction will help ensure that small entity applicants are aware that these detailed educational materials, which are designed to enhance their understanding of the pre-bidding and bidding processes, are available for their use.

OEA and WTB do not expect that the processes and procedures adopted in the *Auction 113 Procedures Public Notice* will require small entities to hire attorneys, engineers, consultants, or other professionals to participate in Auction 113 and comply with the procedures they adopt. Moreover, OEA and WTB do not believe that the cost of compliance will unduly burden small entities that choose to participate in the auction. The processes and procedures adopted in the *Auction 113 Procedures Public Notice* are consistent with existing Commission policies and procedures used in prior auctions. Thus, some small entities may already be familiar with such procedures and have the processes and procedures in place to facilitate compliance and minimize their costs to comply. Even for those small entities that may be new to the

Commission's auction process, the various resources that will be made available, including, but not limited to, the mock auction, remote electronic bidding, and access to hotlines for both technical and auction assistance, should help facilitate participation without the need to hire professionals. These resources are in addition to the resources discussed in the *Auction 113 Procedures Public Notice* that small entities and other applicants will be able to access. By providing these resources as well as the resources discussed below, OEA and WTB expect small entities that use the available resources to experience lower participation and compliance costs.

*Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to provide "a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

In the *Auction 113 Procedures Public Notice*, OEA and WTB have taken steps to minimize any economic impact of the Commission's auction procedures on small businesses through, among other things, the many resources provided to potential auction participants. Consistent with the past practices in prior auctions, small entities that are potential participants will have access to detailed educational information and Commission personnel to help guide their participation in Auction 113, which should alleviate any need to hire professionals. Only one party filed comments in response to the *Auction 113 Comment Public Notice* regarding the Commission's provision of these materials. In reaching their conclusions in the *Auction 113 Procedures Public Notice*, OEA and WTB considered the alternatives presented in this party's comments. For example, this party advocates for additional educational support in the form of personalized and interactive tools claiming that the available educational materials are often too generalized for bidders, particularly small entities, to apply to their particular circumstances, also suggests that the Commission provide a more detailed analysis, including additional educational resources, of the costs of compliance with the Supplemental IRFA to further support small

businesses in underserved markets. By this party's own acknowledgement, however, the Commission's educational resources are "valuable components" to a "demonstra[ble] commitment to equipping participants with the tools they need for Auction 113."

To assist small entities with the AAS and the bidding system in Auction 113, the Commission currently offers a wide variety of free educational materials, demonstrations, educational opportunities, and other information and resources. For example, small entities and other would-be participants will also be provided with various materials on the pre-bidding process in advance of the short-form application filing window, which includes step-by-step instructions on how to complete FCC Form 175. The Commission has taken steps to ensure that the AAS is simple to use, and that FCC Form 175 is easy to complete. For example, if an applicant for Auction 113 previously filed an FCC Form 602 ownership disclosure information report or filed an application to participate in a previous auction in which ownership information was disclosed and the applicant uses the same FRN used to make that filing to create its FCC Form 175 for Auction 113, the AAS will give the applicant the option to pre-fill the most current ownership information contained in any such filing into certain ownership sections on the applicant's FCC Form 175. Accordingly, in light of all the educational resources the Commission already provides to bidders in an auction, OEA and WTB conclude that the added benefit, if any, of developing alternative personalized and interactive educational tools in time for Auction 113 is outweighed by the time and expense that the Commission would incur to customize such resources.

In addition, small entities will have access to the web-based, interactive online tutorials produced by Commission staff to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to an auction.

Prior to the start of bidding, eligible bidders will be given an opportunity to become familiar with auction procedures and the bidding system by participating in a mock auction. Eligible bidders will have access to a user guide for the bidding system, bidding file formats, and an online bidding procedures tutorial in advance of the mock auction. Further, OEA and WTB will conduct Auction 113 electronically over the internet using a web-based bidding system that eliminates the need for small entities and other bidders to be

physically present in a specific location. These mechanisms are made available to facilitate participation in Auction 113 by all eligible bidders and may result in significant cost savings for small entities that use them. Moreover, the adoption of bidding procedures in advance of the auction, consistent with statutory directive, is designed to ensure that the auction will be administered predictably and fairly for all participants, including small businesses. These steps provide measures to prepare and support the ability of a small business to comprehend the Commission's bidding rules, including the rules relating to the proposal for a 95% activity level to retain full eligibility in auction rounds. Given the steps they have taken, OEA and WTB decline to adopt the alternative proposal offered by a commenter to lower the activity rule threshold.

Small entities and other auction participants may seek clarification of, or guidance on, complying with competitive bidding rules and procedures, reporting requirements, and using the bidding system at any stage of the auction process. Additionally, the FCC Auctions Hotline will provide small entities one-on-one access to Commission staff for information about the auction process and procedures. Further, the FCC Auctions Technical Support Hotline is another resource that provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic FCC Form 175 and use of the bidding system.

The Commission also makes various databases and other sources of information, including the Auctions program websites and copies of Commission decisions, available to the public without charge, providing a low-cost mechanism for small entities to conduct research prior to and throughout the auction. Prior to the start of bidding, and at the close of Auction 113, OEA and WTB will post public notices on the Commission's Auctions website that articulate the procedures and deadlines for the auction. The Commission makes this information easily accessible and without charge to benefit small entities and other Auction 113 applicants, including small entities, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

After the initial application stage, auction participants whose applications have been deemed incomplete have the opportunity to correct certain errors. An applicant whose application is deemed incomplete will receive a letter from the

Commission identifying the specific errors in their application and providing the contact information for a specific Commission staff member who has been assigned to provide assistance. Additionally, after the application process is complete and the Commission has identified the applicants who will be qualified to bid in Auction 113, all qualified bidders for Auction 113 will automatically be registered for the auction, and registration materials will be distributed prior to the auction by overnight delivery. Applicants are not required to take any further steps until bidding commences.

Another step taken to minimize the economic impact for small entities participating in Auction 113 is the Commission's adoption of bidding credits for small businesses and rural service providers. OEA and WTB received comments discussing the adoption of bidding credits for small businesses and rural service providers and the application of the 47 CFR part 1, subpart Q bidding credit rules as in effect for Auction 97 in Auction 113. These discussions of eligibility for small business bidding credits were resolved in the *2025 AWS-3 Report and Order*. In accordance with the service rules applicable to the AWS-3 band licenses to be offered in Auction 113, bidding credit discounts will be available to eligible small businesses and small business consortia on the following basis: (1) a bidder with attributed average annual gross revenues that do not exceed \$55 million for the preceding five years is eligible to receive a 15% discount on its overall payment; or (2) a bidder with attributed average annual gross revenues that do not exceed \$20 million for the preceding five years is eligible to receive a 25% discount on its overall payment. Eligible applicants can receive only one of the available small business bidding credits—not both.

An eligible rural service provider may request a 15% discount on its overall payment using a rural service provider bidding credit. To be eligible for a rural service provider bidding credit, an applicant must: (1) be a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (2) serve predominantly rural areas. Rural areas are defined as counties with a population density of 100 or fewer persons per square mile. Eligible applicants can request either a small business bidding credit or a rural

service provider bidding credit, but not both.

The total bidding credit discount that may be awarded to an eligible small business is capped at \$25 million and there is a \$10 million cap that may be awarded to a rural service provider. In addition, to create parity among eligible small businesses and rural service providers competing against each other in smaller markets, OEA and WTB adopt a \$10 million cap on the overall amount of bidding credits that any winning designated entity bidder may apply to winning licenses in markets with a population of 500,000 or less. Based on the technical characteristics of AWS-3 licenses and their analysis of past auction data, OEA and WTB anticipate that the caps adopted in the *Auction 113 Procedures Public Notice* will allow the majority of small businesses to take full advantage of the bidding credit program, thereby lowering the relative costs of participation for small businesses. While eligible entities will have the opportunity to compete at auction without being unduly constrained, the caps are reasonable enough to ensure that ineligible entities are not encouraged to undercut the Commission's rules, thereby achieving the Commission's dual statutory goals of benefiting designated entities and at the same time preventing unjust enrichment. In Auction 113, bidding credit caps were adopted not only because OEA and WTB are required to do so by 47 CFR part 1, subpart Q, but also because bidding credit caps provide safeguards for both the Commission and small entities and other Auction 113 bidders. Therefore, OEA and WTB rejected the alternatives received in comments opposing the bidding credit cap as proposed, including those opposing any form of a bidding credit cap as well as those opposing proposals for an increase. Likewise, OEA and WTB are unable to consider any changes to the geographic size of licenses offered in Auction 113, as proposed by a commenter and supported by another commenter, because the Commission adopted the use of CMAs for AWS-3 spectrum licenses in the context of a rulemaking and amending that decision is outside the scope of OEA's and WTB's delegated authority to establish auction procedures.

A Tribal lands bidding credit will also be available to winning bidders that intend to deploy facilities and provide services to qualifying Tribal lands that have a wireline penetration rate equal or below 85%. The Tribal lands bidding credit is in addition to, and separate from, any other bidding credit winning

bidders may qualify to claim. Therefore, small entities that are eligible for the small or rural bidding credit can also claim the Tribal lands bidding credit, provided they meet the requirements of 47 CFR 1.2107 and 1.2110(f).

The procedures for the conduct of Auction 113 constitute the more specific implementation of the competitive bidding rules contemplated by 47 CFR parts 1 and 27 and the underlying rulemaking orders, including the *2014 AWS-3 Report and Order*, the *2025 AWS-3 Report and Order*, and relevant competitive bidding orders, and are fully consistent therewith.

*Report to Congress.* The Commission will send a copy of the *Auction 113 Procedures Public Notice*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Auction 113 Procedures Public Notice*, including this FRFA to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Auction 113 Procedures Public Notice* and the FRFA (or summaries thereof) in the **Federal Register**.

Federal Communications Commission.

**Gary Michaels,**

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 25-1062; FR ID 323503]

### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Table of FM Allotments, of the Federal Communications Commission's (Commission) rules, by reinstating certain channels as a vacant FM allotment in various communities. The FM allotments were previously removed from the FM Table because a construction permit and/or license was granted. These FM allotments are now considered vacant because of the cancellation of the associated FM authorizations or the dismissal of long-form auction FM applications. A staff engineering analysis confirms that all of the vacant FM allotments complies with the minimum distance separation requirements and principle community coverage requirements of the