



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

News media information (202) 418-0500. Recorded listing of releases and texts (202) 418-2222

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AUCTION OF CELLULAR UNSERVED AREA LICENSES (Auction No. 12)

Wireless Telecommunications Bureau Provides Guidance on Eligibility for Cellular Unserviced Service Area Auction

Report No. AUC-96-12-B (Auction No. 12)

The Wireless Telecommunications Bureau ("Bureau") has received several inquiries concerning eligibility for the upcoming cellular unserved service area auction (Auction No. 12).¹ These questions pertain to the limitation of participants in this auction to those entities that previously filed an FCC Form 464 or 464-A for the licenses offered in this auction.² This Public Notice provides guidance on determining eligibility to participate in Auction No. 12.

The Commission's rules for licensing unserved areas in cellular markets on channel blocks for which the five year build-out has expired has two Phases: Phase I and Phase II.³ Entities seeking a license in the Phase I process are required to file an FCC Form 464 on the 31st day after the expiration of the five year build-out period of the system on the channel block in the market containing the unserved area.⁴ The Phase II process allows parties to apply for any unserved

¹ See FCC Issues Procedures, Terms and Conditions for January 13, 1997 Auction of Cellular Unserviced Phase I and Phase II Service Areas, *Public Notice*, DA 96-1850 (rel. Nov. 8, 1996) ("*Auction Public Notice*").

² Cellular unserved area licenses are auctioned in groups based upon the expiration of the five-year build-out period. Auctions will be held approximately every six months. See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, *Ninth Report and Order*, PP Docket No. 93-253, ¶ 11 (rel. Nov. 7, 1996) ("*Ninth Report and Order*").

³ 47 C.F.R. § 22.949.

⁴ *Id.*

areas that may remain after the Phase I process is complete.⁵ Phase II applicants are required to file an FCC Form 464-A. An applicant lists the cellular market and channel block for which it seeks authorization on the FCC Form 464 or 464-A. Mutually exclusive applications are subject to competitive bidding.⁶

All applicants who wish to compete in a cellular unserved service area auction also must submit an FCC Form 175 by the date specified by Public Notice issued by the Bureau.⁷ For Auction No. 12, FCC Form 175s are due on December 16, 1996.⁸ An applicant is required to list the markets and channel blocks in which it seeks to bid on the FCC Form 175. Eligibility to participate in a cellular unserved auction is limited to those entities who previously filed an FCC Form 464 or 464-A for a market and channel block whose license is being auctioned. Thus, the number of entities eligible to participate in a cellular unserved auction is limited. Further, the entities who are eligible to participate in the auction are able to bid only for the markets and channel blocks previously specified on their FCC Form 464s or 464-As. A list of licenses being auctioned and those eligible to apply for each license is provided in Attachment A to the *Auction Public Notice*.

Each applicant has an obligation to keep a current FCC Form 464 or 464-A on file with the Commission.⁹ Any applicant whose FCC Form 464 or 464-A is not current must file the appropriate amendments prior to filing the FCC Form 175. The Commission has requested that any applicant for Auction No. 12 not on the list of eligible participants attach an exhibit to its FCC Form 175 explaining its relationship to the entity on the list through which it derives its eligibility to participate. The Commission will process all timely filed FCC Form 175s to determine which are acceptable for filing.

The Bureau provides the following examples to illustrate eligibility to participate in Auction 12.¹⁰

⁵ The Phase II licensing process is dependent on the Phase I process. If a Phase I application is granted for a market and channel block, Phase II applications for that market and channel block can be filed on or after the 121st day after the application was granted. If no Phase I applications were received, Phase II applications can be filed on or after the 32nd day after the end of the relevant five-year build-out period. 47 C.F.R. § 22.949(b).

⁶ *Ninth Report and Order* at ¶ 12.

⁷ *Id.*

⁸ Applicants are strongly encouraged to submit their FCC Form 175 electronically, although manual filing (via hard copy) will be permitted. *Auction Public Notice* at 2-3.

⁹ See 47 C.F.R. § 1.65.

¹⁰ The Bureau emphasizes that these examples are for purposes of illustration only. They are not based on any actual event or occurrence, and are not intended to be all inclusive.

Example 1

A Corp timely filed an FCC Form 464 for MSA 1, channel block B. After the issuance of a Public Notice announcing an auction of cellular unserved area licenses, A Corp timely filed an FCC Form 175. In response to Item 11, "Markets and Frequency Blocks/Channels for which you want to bid," A Corp selected the "All" Box on its FCC Form 175.

A Corp's application will be considered incomplete. An entity may only apply for bidding eligibility on licenses in which it has timely filed an FCC Form 464 or 464-A. In A Corp's situation, it can only seek bidding eligibility for MSA 1, channel block B. Furthermore, because the FCC Form 464 or 464-A filing deadline has passed for the licenses offered in the current auction, A Corp cannot obtain bidding eligibility for any license in the auction other than MSA 1, channel block B by now filing an FCC Form 464 or 464-A.

Example 2

X Corp timely filed an FCC Form 464 for RSA 1, channel block A; Y Corp timely filed an FCC Form 464 for RSA 2, channel block B. X Corp and Y Corp were wholly owned subsidiaries of Z Corp. After the issuance of a Public Notice announcing an auction of cellular unserved area licenses, Z Corp timely filed an FCC Form 175 to seek bidding eligibility for RSA 1, channel block A and RSA 2, channel block B. Attached to Z Corp's FCC Form 175 is an exhibit explaining Z Corp's relationship to X Corp and Y Corp.

Z Corp will be eligible to bid on the license for both RSA 1, channel block A and RSA 2, channel block B (provided Z Corp timely filed its upfront payment and has a sufficient bidding activity level to bid for both licenses). Z Corp was able to derive its eligibility to participate in the auction through the FCC Form 464s filed by X Corp and Y Corp.

For additional information, please contact Thomas Horan, Auctions Division, Wireless Telecommunications Bureau, at (202) 418-0660 or Thomas Dombrowsky, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0620.

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