

Exhibits to FCC Form 175 and Related Issues

Auction No. 46: 1670-1675 MHz Band Auction Seminar
September 18, 2002

Introduction

- Roadmap
- Exhibits: Highlights
- Reminders

Rules: A Roadmap

- Rules Seek Information
 - Part 1, Subpart Q; 47 C.F.R. Sections 1.2105 and 1.2112.
 - Attachment D to 1670-1675 MHz Band Auction Scheduled for October 30, 2002, *Public Notice*, DA 02-1871 (rel. August 5, 2002).

Rules: A Roadmap

- Ensure accuracy and completeness
 - Only minor modifications are permitted
 - *See* Section 1.2105(b) for modification and dismissal of applications
 - Certifications – mandatory
 - All applicants must include Exhibits A and D
 - Some applicants must include additional Exhibits.
 - Exhibit B – bidding agreements
 - Exhibit C – bidding credits
- No particular format for exhibits. Content is important.
 - For examples of FCC Form 175s from other auctions, *see* <https://auctionfiling.fcc.gov/form175/index.htm>

Exhibit A: Applicant Identity and Ownership Information

- Applicants must disclose all “real parties in interest.” Section 1.2112(a).
- Section 1.2112(a) requires:
 - List all parties having ten percent or greater interest in the applicant.
 - ❖ Name, address, and citizenship
 - List all FCC-regulated entities of which the applicant or its owners own 10 percent or more.
 - ❖ Include a description of each entities’ principal business and its relationship to the applicant

Exhibit A: Applicant Identity and Ownership Information

- Applicants seeking bidding credits must provide additional ownership information under Section 1.2112(b).
 - Names, addresses, and citizenship of all officers, directors, and other controlling interests as defined by section 1.2110

Exhibit B: Joint Bidding Agreements

- Communications concerning bids, bidding strategies, and settlement agreements are generally prohibited among applicants for licenses in the same geographic area (section 1.2105(c)).
 - Prohibition period is between the short-form deadline and the down payment deadline.
 - For purposes of the anti-collusion rule, “applicant” includes controlling interests, ownership interests, and officers and directors.

Exhibit B: Joint Bidding Agreements

- In Exhibit B, applicants must identify all parties with whom they have entered into arrangements of any kind relating to the licenses being auctioned, including post-auction market structure. Section 1.2105(a)(2)(viii).
- Applicants that make or receive a prohibited communication of bids or bidding strategies must report, in writing, the communication immediately to the Commission.
 - ❖ For more information, *see* Wireless Telecommunications Bureau Clarifies Auction Anti-Collusion Rules, *Public Notice*, DA 95-2244 (rel. Oct. 26, 1995)
 - ❖ Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, 16 FCC Rcd 17,546 (2001).

Exhibit C: Status As a Small/Very Small Business

- Applicants may obtain a bidding credit based on their attributed average gross revenues for the last 3 years.
- Attributed gross revenues include revenues of the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests.

Exhibit C: Status As a Small/Very Small Business

- *Small Business*: attributed average gross revenues < \$40 million
 - 15% bidding credit
- *Very Small Business*: attributed average gross revenues < \$15 million
 - 25% bidding credit

Exhibit D: Former Defaulter Certification

- Required statement.
- Statement must indicate whether the applicant has ever been in default on any FCC license or any non-tax debt owed to any federal agency.
- The term “applicant” includes the applicant’s affiliates, its controlling interests, and affiliates of its controlling interests.
- Statement made under penalty of perjury.

Other Exhibits

- Exhibits E: “Designated Entities” includes small businesses
- Exhibit F: Applicants’ opportunity to provide additional information
- Waiver Requests: If filing, provide as much information as possible.

Reminders

- Applications will be available to the public.
 - Do not list taxpayer identification numbers (TINs) on the FCC Form 175
- Carefully read all the FCC Form 175 certifications.
 - Submission of the FCC Form 175 is a representation that its contents are true and correct.
 - Submission of a false certification may result in penalties.
 - Applicant must certify that it is legally, technically, financially, and otherwise qualified to participate in the auction.

Questions?



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