

bidding. 47 U.S.C. 309(j)(5). *See also* H. R. Rep. No. 111, 103d Cong., 1st Sess. 28 (1993). In furtherance of this policy, the Commission decided to require only a short-form application prior to competitive bidding, and determined that only winning bidders should be required to submit a long-form license application after the auction. 47 CFR 1.2104, 1.207. Because this procedure fulfills the statutory requirements and adequately protects the public interest here, the Commission proposes to extend application of these rules to the competitive bidding process for 900 MHz SMR.

20. Under this proposal, the Wireless Telecommunications Bureau would release an initial Public Notice announcing the auction. The Public Notice would specify the following: licenses to be auctioned; time and place of the auction method of competitive bidding to be used; applicable bid submission procedures; stopping rules; activity rules; the deadline by which short-form applications must be filed; and the amounts and deadlines for submitting the upfront payment. Applications submitted before the release of the Public Notice would be returned as premature. Likewise, applications submitted after the deadline specified by Public Notice would be dismissed, with prejudice, as untimely.

21. All bidders would be required to submit short-form applications on FCC Form 175 (and FCC Form 175-S, if applicable), by the date specified in the initial Public Notice. *See* CFR 1.2105(a)(2). Applications could be filed manually or electronically. Each applicant would specify on its applications certain information, including its status as a designated entity (if applicable), its classification (*i.e.*, individual, corporation, partnership, trust, or other), the markets and frequency blocks for which it is applying, and the names of persons authorized to place or withdraw a bid on its behalf. If there is no mutual exclusivity for a particular license, and no petitions to deny are filed, the application would be grantable after 30 days. The Commission seeks comment on the proposals discussed above.

22. *Amendments and Modifications.* To encourage maximum bidder participation, the Commission proposes to provide 900 MHz SMR applicants with an opportunity to correct minor defects in their short form applications prior to the auction. The Commission also proposes to waive the *ex parte* rules as they apply to submission of amended short-form applications to maximize applicants' opportunities to seek

Commission staff advice on making such amendments. Also, applicants would be permitted to modify their applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided that (1) such changes do not result in a change in control of the applicant, and (2) parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic licenses. Applicants would not, however, be permitted to make major modifications to their applications, including changes in markets, changes in control of the applicant, or additions of the other bidders into the bidding consortia, until after the auction. Applications that are not signed would be dismissed as unacceptable. The Commission seeks comment on these proposals.

23. Applications with defects, minor or otherwise, would be listed in a public notice. After reviewing corrected applications, the Commission would release a second public notice announcing applicants whose applications have been accepted or filing. This second public notice would announce the date by which applicants must submit an upfront payment to the Commission, generally no later than 14 days before the scheduled auction. The Commission would release a third public notice announcing the names of all applicants that have been determined as qualified to bid. An applicant who fails to submit a sufficient upfront payment to qualified it to bid on any license being auctioned would not be identified on this Public Notice as a qualified bidder. The Commission seeks comment on these proposals.

24. *Upfront Payments.* The Commission tentatively concludes that applicants that have been determined as qualified to bid should be required to submit a payment of \$0.02 per MHz-pop, based on the number of 10-channel blocks in each MTA identified by an applicant on its Form 175. This requirement would help ensure that only serious and qualified bidders participate and that any bid withdrawal or default penalties are paid. *See Auctions Second Report & Order at* ¶ 171. This formula would also afford bidders the flexibility to change their strategy during an auction and bid on a larger number of smaller licenses or a smaller number of larger licenses, so long as the total MHz-pops combination does not exceed that amount covered by the upfront payment. Population information for each license would be announced in the initial Public Notice released prior to the auction. The

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25. *Down payment and Full Payment.* The Commission tentatively concludes that winning bidders in 900 MHz SMR auctions should be required to supplement their upfront payments with a down payment sufficient to bring their total deposits up to 20 percent of their winning bid(s). Under this proposal, if the upfront payment already tendered by a winning bidder, after deducting any bid withdrawal and default penalties due, amounts to 20 percent or more of its winning bids, no additional deposit would be required. If the upfront payment amount on deposit is greater than 20 percent of the winning bid amount after deducting any bid withdrawal and default penalties due, the additional monies would be refunded. If a bidder has withdrawn a bid or defaulted but the amount of the penalty cannot yet be determined, the bidder would be required to make a deposit of 20 percent of the amount bid on such licenses. When it becomes possible to calculate and assess the penalty, any excess deposit would be refunded. Upfront payments would be applied to such deposits and to bid withdrawal and default penalties due before being applied toward the bidder's down payment on licenses the bidder has won and seeks to acquire. The Commission seeks comment on these proposals.

26. The Commission proposes to require winning bidders to submit the required down payment by cashier's check or wire transfer to its lock-box bank by a date to be specified by Public Notice, generally within five business days following the close of bidding. The balance of their winning bids would be made within five business days following public notice that the Commission is about to award the license, and grant of the license would be conditioned on this payment. An auction winner that is eligible to make payments through an installment plan, however, would be required to submit a deposit up to five percent of its winning bid, and would submit an additional five percent of its winning bid after the license granted. This would ensure that auction winners have the necessary financial capabilities to complete payment for the license and pay for the costs of constructing a system, without hindering growth or diminishing access to the auctions. The Commission seeks comment on this proposal.

27. *Bid Withdrawal, Default, and Disqualification.* The Commission proposes that bidders who withdraw a high bid, are found unqualified to hold licenses, or default on payment of a