

Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 15, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202-418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0787.

Title: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,800.

Estimated Time Per Response: 1.25-5 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement, and recordkeeping requirement.

Total Annual Burden: 36,844 hours.

Total Annual Cost: N/A.

Needs and Uses: 47 U.S.C. 258 makes it unlawful for any telecommunications carrier to submit or execute a change in a subscriber's exchange service or toll service carrier selection except in accordance with the Commission's

verification procedures, and provides that any carrier that violates these procedures and collects charges for telecommunications service from a subscriber after such violation shall be liable to the subscriber's properly authorized carrier for all charges collected. In this rulemaking, we adopt changes in 47 CFR Sections 64.1100, 64.1150, 64.1160, 64.1170, 64.1180 and proposes new requirements in CC Docket 94-129.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-3332 Filed 2-10-99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[DA 98-2604; Report No. AUC-98-22-C (Auction No. 22)]

Auction of C, D, E, and F Block Broadband PCS Licenses Scheduled for March 23, 1999; Minimum Opening Bids and Other Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This is a summary of a Public Notice (DA 98-2604) released on December 23, 1998, and corrected by a Public Notice released on January 21, 1999, setting forth notice and filing requirements, minimum opening bids, and other procedural matters for the upcoming auction of C, D, E, and F block broadband Personal Communications Services (PCS) licenses (Auction No. 22), in accordance with the Balanced Budget Act of 1997.

DATES: Auction No. 22 is scheduled to begin on March 23, 1999.

ADDRESSES: See the text of the Public Notice and attachments for information regarding important addresses.

FOR FURTHER INFORMATION CONTACT:

Media Contact: Meribeth McCarrick, (202) 418-0654.

Auctions Division: Jeff Garretson, Operations; Bob Reagle, Auctions Analysis; or Audrey Bashkin, Legal, (202) 418-0660.

Commercial Wireless Division: David Judelson, (202) 418-7240.

SUPPLEMENTARY INFORMATION: The complete text of this Public Notice, including four attachments that do not appear in this summary, is available for inspection and copying Monday through Thursday from 9 a.m. to 4 p.m., and Friday from 9 a.m. to 2 p.m., in the Wireless Telecommunications Bureau's Public Reference Room (Room 5608),

2025 M Street, NW, Washington, DC, 20554, or on the Commission's World Wide Web page, located at <http://www.fcc.gov/wtb/auctions>. Copies also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036, (202) 857-3800. The four attachments that do not appear in this summary, but are available as described above, are: Attachment A (Summary of Licenses to be Auctioned, Upfront Payments, Minimum Opening Bids); Attachment B (Guidelines for Completing FCC Forms 175 and 159 and Exhibits); Attachment C (Electronic Filing and Review of FCC Form 175); and Attachment D (Summary Listing of Documents from the Commission and the Wireless Telecommunications Bureau Addressing Application of the Anti-Collusion Rules).

Synopsis

I. Introduction

1. The Commission will hold an auction for 208 30 MHz and 134 15 MHz C block licenses, as well as for three 10 MHz D block, six 10 MHz E block, and five 10 MHz F block licenses.

2. **Auction Date:** The auction will commence on March 23, 1999. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding will be conducted on each business day until bidding has stopped on all licenses.

3. **Bidding Methodology:** Simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

Pre-Auction Deadlines:

- Auction Seminar—February 3, 1999
- Short Form Application (FCC Form 175)—February 12, 1999; 5:30 p.m. ET
- Upfront Payments (via wire transfer)—March 1, 1999; 6:00 p.m. ET
- Orders for Remote Bidding Software—March 9, 1999
- Mock Auction—March 18, 1999

Telephone Contacts:

- FCC National Call Center—(888) CALL-FCC (888) 225-5322 or (717) 338-2888 (direct dial). For Bidder Information Packages, General Auction Information, and Seminar Registration, press option #2 at the prompt. Hours: 8 a.m.-5:30 p.m. ET, Monday through Friday.
- FCC Technical Support Hotline—(202) 414-1250 (voice), (202) 414-1255 (text telephone (TTY)). Hours of service:

8 a.m.–6 p.m. ET, Monday through Friday.

A. Background

4. Broadband PCS encompasses a variety of mobile and/or portable radio services, using such devices as small, lightweight, multifunction portable phones, portable fax machines, and advanced devices with two-way data capabilities that are competing with existing cellular, paging, and other land mobile services. Auction No. 22 will be the third auction of C block spectrum and the second auction of D, E, and F block spectrum.

5. Frequency blocks C and F have been designated by the Commission as "entrepreneurs' blocks," meaning that participation in auctions of C and F block licenses is limited to entities qualifying as entrepreneurs under the Commission's rules. Eligibility requirements for participation in auctions of C or F block licenses are discussed in greater detail below in Part II of the Public Notice.

6. Frequency block C encompasses 1895–1910 MHz paired with 1975–1990 MHz. In the first C block auction (Auction No. 5), which began on December 18, 1995 and concluded on May 6, 1996, the Commission auctioned licenses authorizing service on 30 MHz of spectrum in each of the 493 basic trading areas ("BTAs") in the United States and territories. In the second C block auction (Auction No. 10), the Commission made available 18 licenses of 30 MHz of spectrum each. Auction No. 10 ran from July 3, 1996 to July 16, 1996. In 1997, as one of several payment options, the Commission allowed C block licensees from Auctions 5 and 10 to disaggregate and return to the Commission 15 MHz of spectrum from their licenses. As a result, certain C block licenses available in Auction No. 22 will encompass 15 MHz of spectrum, rather than 30 MHz. The size of each license to be auctioned is indicated in Attachment A of the full text of the Public Notice (see "Supplementary Information" above).

7. The D, E, and F block auction (Auction No. 11) began on August 26, 1996 and concluded on January 14, 1997. The D and E blocks were open to all entities. As mentioned, the F block was restricted to entrepreneurs. In Auction No. 11, the Commission made available 1,479 broadband PCS licenses (three in each of 493 BTAs in the United States and territories) of 10 MHz (5 MHz paired) each, encompassing the following frequencies:
D block: 1865–1870/1945–1950 MHz
E block: 1885–1890/1965–1970 MHz
F block: 1890–1895/1970/1975 MHz

B. Due Diligence

8. Potential bidders are reminded that private and common carrier fixed microwave services ("FMS") operating in the 1850–1990 MHz band (and other bands) are being relocated to available frequencies in higher bands or to other media. Bidders should become familiar with the status of FMS operation and relocation, and applicable Commission rules and orders, in order to make a reasoned, appropriate decision about their participation in Auction No. 22 and their bidding strategy.

9. Potential bidders should be aware that certain applications (including those for modification), waiver requests, petitions for reconsideration and applications for review are pending before the Commission that relate to C, D, E, and F block licensees. We note that resolution of these matters could have an effect on the availability of spectrum. In addition, while the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

10. In notes to Attachment A of the full text of the Public Notice (see "Supplementary Information" above), as corrected by the Public Notice released January 21, 1999, the Commission identified certain licenses that will be included in Auction No. 22 as being the subject of pending judicial proceedings. The Commission emphasizes that the auction of spectrum associated with those licenses, including spectrum associated with defaulted licenses, will not be postponed until the resolution of pending judicial appeals. It is in the public interest to include those licenses in Auction No. 22, not only because to do so will likely speed ultimate service to the public, but also because a simultaneous auction of licenses for several markets will better reflect the value of the licenses.

11. Moreover, licenses that are the subject of such proceedings will be granted at the close of the auction in order to serve the public interest in prompt implementation of PCS service, and the grant of such licenses will be conditioned on the outcome of pending proceedings. A license grant that is conditioned on the outcome of a pending proceeding may be undone if the basis for the grant is reversed as a result of the outcome of the proceeding. For this reason, applicants have a responsibility to familiarize themselves with all pending administrative or judicial proceedings that may affect the licenses on which applicants might wish to bid.

12. Winning bidders of licenses subject to pending proceedings are required to meet the normal payment and construction schedules established by the Commission. The risk that a pending proceeding might ultimately displace a winning bidder must be taken into account by auction participants as they formulate and pursue their bidding strategies. The Commission has not addressed directly whether, if an applicant becomes ineligible to hold a license because the initiator of a pending proceeding is successful, the Commission will return the payments made for the license by the applicant. This issue will be addressed separately.

13. Licensing information is contained in the Commission's licensing database, which is available for inspection in the Wireless Telecommunications Bureau's Public Reference Rooms, located at 2025 M Street, NW, Room 5608, Washington, DC 20554, and 1270 Fairfield Road, Gettysburg, PA 17325. In a future Public Notice, the Bureau will provide the new location of the Commission's licensing database in the Portals building.

14. In addition, potential bidders may search for information regarding C, D, E, and F block licenses at the Universal Licensing System site on the FCC Network. Accessing this network involves using the FCC's Dial-Up Networking facility to dial (800) 844–2784. Once the connection is established, users point their Internet browser at <http://wtbwww05.fcc.gov/> and click the License Search button. On the License Search screen, choose Market-Based from the menu. On the License Search criteria screen, specify the desired Market, Channel Block, or other desired criteria, then click the Search button. Any telephone inquiries regarding accessing this data should be directed to the Technical Support Hotline at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)).

15. The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in or near the geographic area for which they plan to bid.

C. Participation

16. Those wishing to participate in the auction must:

- Electronically submit a short form application (FCC Form 175) by February 12, 1999.

- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by March 1, 1999.
- Comply with all provisions outlined in the Bidder Information Package.

D. Prohibition of Collusion

17. To ensure the competitiveness and integrity of the auction process, the Commission's Rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins with the filing of short-form applications, and ends on the down payment due date. Bidders competing for the same license(s) are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he/she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm), a violation could similarly occur. At a minimum, in such a case, applicants should certify that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. The Bureau, however, cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred nor will it preclude the initiation of an investigation when warranted. In Auction No. 22, for example, the rule would apply to any applicants bidding for the same BTA. Therefore, applicants that apply to bid for "all markets" would be precluded from communicating with all other applicants after filing the FCC Form 175. However, applicants may enter into bidding agreements before filing their FCC Form 175 short-form applications, as long as they disclose the existence of the agreement(s) in their Form 175 short-form applications. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with Section 1.2105(c). In addition, Section 1.65 of the Commission's Rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of

decisional significance to that application. Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation.

E. Bidder Information Package

18. More complete details about this auction are contained in a Bidder Information Package. The Commission will provide one copy to each applicant free of charge. Additional copies may be ordered at a cost of \$16.00 each, including postage, payable by Visa or Master Card, or by check payable to "Federal Communications Commission" or "FCC." To place an order, contact the FCC National Call Center at (888) CALL-FCC ((888) 225-5322, press option #2 at the prompt). Prospective bidders that have already contacted the FCC at this number expressing an interest in this auction will receive a Bidder Information Package in approximately four weeks, and need not call again unless they wish to order additional copies.

F. Relevant Authority

19. Prospective bidders must familiarize themselves thoroughly with the Commission's Rules relating to Broadband PCS contained in Title 47, Part 24, of the Code of Federal Regulations, and those relating to application and auction procedures, contained in Title 47, Part 1, of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions contained in the *C Block Second Report and Order and Further Notice of Proposed Rule Making*, 62 FR 55348, October 24, 1997; the *C Block Reconsideration Order*, 63 FR 17111, April 8, 1998; the *C Block Fourth Report and Order*, 63 FR 50791, September 23, 1998; Part 24, Subparts A, B, C, E, H, and I of the Commission's Rules concerning broadband PCS; and Part 1, Subpart Q, of the Commission's Rules concerning competitive bidding proceedings.

20. The terms contained in the Commission's Rules, relevant orders, public notices and bidder information package are not negotiable. The Commission may amend or supplement the information contained in its public notices or the bidder information package at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission Rules and with all public notices pertaining to this auction. Copies of most Commission documents,

including public notices, can be retrieved from the FCC Internet node via anonymous ftp @ftp.fcc.gov or the FCC World Wide Web site at http://www.fcc.gov/wtb/auctions. Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 857-3800.

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

22. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 22 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 the minimum investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service ("IRS"), 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.

23. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC,

the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals regarding Auction No. 22 may also call the FCC National Call Center at (888) CALL-FCC ((888) 225-5322).

G. National Environmental Policy Act (NEPA) Requirements

24. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and licensees must comply with the Commission's NEPA rules for each wireless facility. See 47 CFR 1.1305-1.1319. These rules require that, among other things, licensees consult with expert agencies having NEPA responsibilities including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers, and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). Licensees must prepare environmental assessments for wireless facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. Licensees must also prepare environmental assessments for wireless facilities that include high intensity white lights in residential neighborhoods or excessive radiofrequency emission.

II. Eligibility

A. General Requirements

25. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially, and otherwise qualified to hold a license and, as discussed below in Part II.D., that they are not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

B. Eligibility To Participate as an Entrepreneur (C and F Blocks)

(1) General Rule

26. Only entrepreneurs as defined in Section 24.709 of the Commission's Rules may be licensed in the C and F blocks.

(2) Limited Exception for C Block

27. Applicants that participated in either of the prior C block auctions, Auction No. 5 and Auction No. 10, will not be required for Auction No. 22 to meet the revenue and asset requirements of Section 24.709 of the Commission's Rules for C block licenses.

C. Attribution Rules

28. The attribution rules set forth in Section 24.709 of the Commission's Rules will apply to Auction No. 22.

D. Special C Block Eligibility Provisions Regarding Defaulters

29. The Commission decided in the *C Block Fourth Report and Order* to limit participation in future C block auctions to applicants that are not in default on any Commission licenses and are not delinquent on any non-tax debt owed to any Federal agency. Accordingly, to be able to bid on C block licenses, an applicant must certify on its FCC Form 175 application that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. In addition, to be able to bid on C block licenses, an applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission licenses or has ever been delinquent on any non-tax debt owed to any federal agency. C block applicants must include this statement at Exhibit F of the FCC Form 175.

30. "Former defaulters" (i.e., applicants that have defaulted or been delinquent in the past, but that have since paid all of their outstanding non-tax debts and all associated charges or penalties) are eligible to bid on C block licenses, provided that they are otherwise qualified. However, as discussed below in Part III.C.(3), former defaulters will be required to pay upfront payments that are fifty percent more than the normal upfront payment amounts if they are bidding on any C block licenses.

31. An applicant must state under penalty of perjury whether or not any entity whose gross revenues and total assets are required to be attributed to the applicant under Section 24.709 of the

Commission's Rules has ever been in default on any Commission licenses or has ever been delinquent on any non-tax debt owed to any Federal agency. If any entity whose gross revenues and total assets are required to be attributed to the applicant under Section 24.709 of the Commission's Rules has ever been in default on any Commission licenses or has ever been delinquent on any non-tax debt owed to any Federal agency, the applicant will be considered a "former defaulter" for purposes of the upfront payment requirements for Auction No. 22.

32. We note, moreover, that if any entity whose gross revenues and total assets are required to be attributed to the applicant under Section 24.709 of the Commission's Rules is in default on any Commission licenses or is delinquent on any non-tax debt owed to any Federal agency at the time the applicant files its FCC Form 175 application, the applicant will not be able to make the certification required by Section 1.2105(a)(2)(x) of the Commission's Rules and will not be eligible to participate in Auction No. 22.

33. We will not consider an applicant in default or delinquent on a Commission installment obligation for purposes of C block eligibility and upfront payment rules unless and until the obligated entity has allowed the Section 1.2110(f)(4)(ii) non-default period to pass without having made the requisite payment.

E. Special C Block Eligibility Restriction Regarding Surrendered C Block Licenses

34. C block licensees that surrendered C block licenses pursuant to the disaggregation, prepayment, and/or amnesty/prepayment election options the Commission made available in the *C Block Second Report and Order and Further Notice*, as modified by the *C Block Reconsideration Order*, are ineligible to reacquire the spectrum represented by their surrendered licenses through participation in Auction No. 22, or by any other means, for a period of two years from the start date of Auction No. 22. This prohibition extends to qualifying members of the licensee's control group, and their affiliates. See 47 CFR 24.709(b)(9)(ii). Licensees that surrendered licenses pursuant to the "pure amnesty" election option remain eligible to reacquire the spectrum represented by those surrendered licenses in Auction No. 22 or through a secondary market transaction.

F. General Eligibility Criteria Regarding Small and Very Small Businesses

35. The Commission has adopted special small business provisions for the C and F blocks in order to promote and facilitate the participation of small businesses in auctions of C and F block licenses and in the provision of broadband PCS.

(1) Determination of Revenues

36. To determine which entities qualify as very small businesses or small businesses, the Commission will consider the gross revenues of the applicant, its affiliates, persons or entities holding interests in the applicant and their affiliates on a cumulative basis and aggregated subject to the exceptions set forth in Section 24.709(b) of the Commission's Rules. Therefore, the gross revenues of all of the above entities must be disclosed separately and in the aggregate as Exhibit C to an applicant's FCC Form 175.

(2) Very Small or Small Business Consortia

37. A consortium of small businesses or very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition of very small or small business in Section 24.720(b)(1) or (2). Thus, each consortium member must disclose its gross revenues along with those of its affiliates and persons or entities holding interests in the consortium member and their affiliates. The Commission notes that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for very small or small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

(3) Application Showing

38. Applicants should note that they will be required to file supporting documentation as Exhibit C to their FCC Form 175 short form applications to establish that they meet the gross revenue and total asset limitations of Section 24.709 of the Commission's Rules, and that they satisfy the eligibility requirements to qualify as very small businesses or small businesses (or consortia of very small or small businesses) for this auction. See 47 CFR 24.709 and 1.2105. Specifically, for Auction No. 22, applicants applying to bid for C and/or F block licenses as very small or small businesses (or

consortia of very small or small businesses) will be required to file as Exhibit C to their FCC Form 175 short form applications, all information required under Sections 1.2105(a), 1.2112(b), and 24.709. In addition, these applicants must disclose, separately and in the aggregate, the gross revenues for the preceding three years of each of the following: (1) the applicant; (2) the applicant's affiliates; (3) the applicant's attributable interests; and (4) the affiliates of the applicant's attributable interests. Certification that the average gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide a schedule of gross revenues for each of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of very small or small businesses, this information must be provided for each consortium member.

G. Bidding Credits

39. Qualifying applicants in Auction No. 22 are eligible for a bidding credit on C and F block licenses that represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average gross revenues for the preceding three years of the bidder, its affiliates, and persons or entities that hold interests in the bidder and their affiliates:

- A bidder with average gross revenues not to exceed \$40 million for the preceding three years receives a 15 percent discount on its winning bids for C and F block licenses; and,
- A bidder with average gross revenues not to exceed \$15 million for the preceding three years receives a 25 percent discount on its winning bids for C and F block licenses.

40. Bidding credits are not cumulative: qualifying applicants receive either the 15 percent or the 25 percent bidding credit, but not both. The definitions of very small business and small business (or a consortium of very small or small businesses) (including calculation of average gross revenues) are set forth in 47 CFR 24.720(b).

41. Bidders for C or F block licenses should note that transfer and assignment restrictions and unjust enrichment provisions apply to winning bidders that use bidding credits and subsequently assign or transfer control of their licenses to an entity not qualifying for the same levels of bidding credits. See 47 CFR 1.2111 and

24.714(a)(3). There are no installment payment plans in Auction No. 22.

III. Pre-auction Procedures

A. Short-Form Application (FCC Form 175)—Due February 12, 1999

(1) Electronic Filing

42. In order to be eligible to bid in this auction, applicants must first electronically submit an FCC Form 175 application. There is no application fee required when filing an FCC Form 175; however, to be eligible to bid, an applicant must submit an upfront payment. Applications may be filed at any time from January 25, 1999 until 5:30 p.m. ET on February 12, 1999. Late applications will not be accepted. Applicants are strongly encouraged to file early, and applicants are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline of February 12, 1999. Applicants must press the "Submit Form 175" button on the "Submit" page of the electronic form to successfully submit their FCC Form 175s. Information about installing and running the FCC Form 175 application software is included in Attachment C of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above). Technical support is available at (202) 414-1250 (voice) or (202) 414-1255 (text telephone (TTY)); the hours of service are 8 a.m.-6 p.m. ET, Monday through Friday.

(2) Completion of the FCC Form 175

43. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment B of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above).

(3) Electronic Review of FCC Form 175

44. The FCC Form 175 review software may be used to review and print applicants' FCC Form 175 applications. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any Exhibits to their FCC Form 175 applications. There is a fee of \$2.30 per minute for accessing this system. For details, see Attachment C of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above).

B. Application Processing and Minor Corrections

45. After the FCC Form 175 filing deadline has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) those applications accepted for filing (including FCC account numbers and the licenses for which they applied); (2) those applications rejected; and (3) those incomplete applications which have minor defects that may be corrected, and the deadline for filing such corrected applications. After the FCC Form 175 filing deadline has passed, applicants cannot make major modifications to their applications (e.g., change their license selections, change the certifying official, or change control of the applicant). See 47 CFR 1.2105.

C. Upfront Payments—Due March 1, 1999

(1) FCC Form 159

46. To be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). Manual filers of FCC Form 159 must use the July 1997 version of FCC Form 159. Filers of the FCC Form 175 will have access to an electronic version of FCC Form 159 after completing the FCC Form 175. Earlier versions of this form will not be accepted. Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment B of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above), and will also be included in the Bidder Information Package.

(2) Making Auction Payments by Wire Transfer

47. All upfront payments must be received at Mellon Bank in Pittsburgh, PA, by 6:00 p.m. ET on March 1, 1999. Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 22 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the March 1, 1999 deadline will result in dismissal of the application and disqualification from participation in the auction.

To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 910-0198
OBI Field: (Skip one space between each information item)
“AUCTIONPAY”
TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, block 26)
PAYMENT TYPE CODE (enter “APCU”) FCC CODE 1 (same as FCC Form 159, block 23A: “22”)
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. #358410

Note: The BNF and Lockbox numbers are specific to the upfront payments for this auction; BNF or Lockbox numbers from previous auctions should not be used. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 236-5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write “Wire Transfer—Auction Payment for Auction Event No. 22.” Bidders may confirm receipt of their upfront payment by contacting their sending financial institution.

(3) Amount of Upfront Payment

48. The upfront payment amount for each C, D, E, and F block license to be auctioned in Auction No. 22 will be calculated as $\$0.06 \times \text{MHz} \times \text{BTA Population}$ (“Pops”). The upfront payment amount for each license has been calculated and is listed in Attachment A of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above).

49. In accordance with the *C Block Fourth Report and Order*, and as proposed in *Procedural Public Notice I and II*, the upfront payment amount for “former defaulters” applying to bid on any C block licenses will be fifty percent more than the normal amount required to be paid. (In other words, “former defaulters” must pay an extra fifty percent in upfront payment to receive the same number of bidding units that “non-former defaulters” receive for the basic upfront payment. See Attachment A of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above). Any former defaulter that applies to bid on “all markets,” or designates D, E, or F block licenses in addition to at least one C block license will be subject to the higher upfront payment requirement. Former defaulters

that apply to bid only on D, E, or F block licenses will not be subject to the higher upfront payment requirement.

50. In Auction No. 22, the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Please note that upfront payments are not attributed to specific licenses. For Auction No. 22, the amount of the upfront payment will be translated into bidding units on a one-to-one basis, e.g., a \$25,000 upfront payment provides the bidder with 25,000 bidding units, unless the bidder is a “former defaulter.” A “former defaulter” will be required to pay \$37,500 (or 1.5 times the basic upfront payment) for 25,000 bidding units. The total upfront payment defines the maximum amount of bidding units on which the applicant will be permitted to bid (including standing high bids) in any single round of bidding. Thus, an applicant does not have to make an upfront payment to cover all licenses that the applicant has selected on FCC Form 175, but rather to cover the maximum number of bidding units that are associated with licenses the bidder wishes to place bids on and hold high bids on at any given time.

51. To place a bid on a license, in addition to having specified that license on the FCC Form 175, a bidder must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, an applicant’s total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on the FCC Form 175, or else the applicant will not be eligible to participate in the auction.

52. In calculating the upfront payment amount, an applicant should determine the maximum number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. Bidders should check their calculations carefully as there is no provision for increasing a bidder’s maximum eligibility after the upfront payment deadline.

53. Former defaulters that apply to bid on any C block licenses should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. The 50 percent increase calculation has been included on the spreadsheet in Attachment A of the full text of the Public Notice. To calculate the number of bidding units to assign to former defaulters applying to bid on any C block licenses, the Commission will divide the upfront payment received by

1.5 and round the result up to the nearest bidding unit.

Note: An applicant may, on its FCC Form 175, apply for every license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

(4) Applicant's Wire Transfer Information for Purposes of Refunds

54. The Commission will use wire transfers for all Auction No. 22 refunds. To avoid delays in processing refunds, applicants should include wire transfer instructions with any refund request they file; they may also provide this information in advance by faxing it to the FCC Billings and Collections Branch to the attention of Linwood Jenkins or Geoffrey Idika, at (202) 418-2843. Please include the following information: (1) Name of Bank; (2) ABA Number; (3) Account Number to Credit; (4) Correspondent Bank (if applicable); (5) ABA Number; (6) Account Number; and (7) Contact and Phone Number. (Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed below in Part V.D.

D. Auction Registration

55. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and that have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

56. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the applicant address listed in the FCC Form 175.

57. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, March 17, 1999 should contact the FCC National Call Center at (888) CALL-FCC ((888) 225-5322, press option #2 at the prompt). Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring that it has received all of the registration material. Qualified bidders should note that lost

login codes, passwords or bidder identification numbers can be replaced only by appearing in person at the FCC Auction Headquarters, located at 2 Massachusetts Avenue, NE, Washington, DC 20002. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes.

E. Remote Electronic Bidding Software

58. Qualified bidders must purchase remote electronic bidding software for \$175.00 by March 9, 1999. (Auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 22.) A software order form is included in the upcoming Bidder Information Package.

F. Auction Seminar

59. On February 3, 1999, the FCC will sponsor a seminar for Auction No. 22 at the Park Hyatt Washington, 1201 24th Street, NW, Washington, DC 20037, (202) 789-1234. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the C, D, E, and F broadband PCS blocks and auction rules. To register, complete the registration form to be included in the Bidder Information Package. The registration form will include details about the time and location of the seminar. Registrations are accepted on a first-come, first-served basis.

G. Mock Auction

60. All applicants whose FCC Form 175 has been accepted for filing will be eligible to participate in a mock auction beginning March 18, 1999. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

61. The first round of the auction will begin on March 23, 1999. The initial round schedule will be announced in a Public Notice listing the qualified bidders, to be released approximately ten days before the start of the auction.

A. Auction Structure

(1) Simultaneous Multiple Round Auction

62. As proposed in *Procedural Public Notices I and II*, the Commission will

use a simultaneous multiple-round design for Auction No. 22.

(2) Maximum Eligibility and Activity Rules

63. For Auction No. 22, the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. As stated above in Part III.C.(3), "former defaulters" must pay a fifty percent higher upfront payment amount. There is no provision for increasing a bidder's maximum eligibility during the course of an auction, as described below in Part IV.A.(4).

64. To ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their maximum eligibility during each round of the auction.

65. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (see Part IV.B.(3), below). A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases as the auction progresses. These procedures have proven successful in maintaining the pace of previous auctions, as discussed below in Parts IV.A.(4) and (5).

(3) Activity Rule Waivers and Reducing Eligibility

66. Each bidder will be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

67. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (1) there are

no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

68. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described below in Part IV.A.(4). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

69. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

(4) Auction Stages

70. Auction No. 22 will be composed of three stages, which are each defined by an increasing activity rule. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction. These procedures have proven successful in maintaining the proper pace in previous auctions.

71. Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

72. Stage Two: In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by ten-ninths (10/9).

73. Stage Three: In each round of the third stage, a bidder desiring to maintain its current eligibility is

required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty-fortyninths (50/49).

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required minimum activity level by using the bidding software's bidding module.

(5) Stage Transitions

74. Auction No. 22 will start in Stage One. Under the FCC's general guidelines it will advance to the next stage (i.e., from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on less than ten percent of the licenses being auctioned (as measured in bidding units). However, the Commission will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

(6) Auction Stopping Rules

75. Barring extraordinary circumstances, bidding will remain open on all licenses until bidding stops on every license. Thus, the auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. The Commission retains the discretion to close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this stopping rule procedure. We will notify bidders in advance of implementing any change to our simultaneous stopping rule.

76. The Commission retains the discretion, however, to keep an auction

open even if no new acceptable bids or proactive waivers are submitted, and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

77. Further, in its discretion, the Commission reserves the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the FCC invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The FCC intends to exercise this option only in extreme circumstances, such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the FCC is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. As the Commission plans to invoke this option only in extreme circumstances, we will not routinely request bidder input prior to doing so; however, we remind bidders that they are free to make their views known to the Commission throughout the auction, and that the Suggestion Box in the Automated Auction System affords them one possible avenue of communication.

(7) Auction Delay, Suspension, or Cancellation

78. By public notice or by announcement during the auction, the Commission may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Commission, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may

cause the Commission to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Commission, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

79. We will provide bidders with reasonable notice either by Public Notice or by announcement over the Automated Auction System prior to recommencing the auction. Although we will not seek comment prior to recommencing the auction, we reiterate that bidders may make their views known to the Commission throughout the auction and, if they choose, may use the Suggestion Box in the Automated Auction System for such communication.

B. Bidding Procedures

(1) Round Structure

80. The initial bidding schedule will be announced by public notice at least one week before the start of the auction, and will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results.

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

(2) Reserve Price or Minimum Opening Bid

82. We adopt minimum opening bids for each of the licenses in Auction No. 22 that are reducible at the discretion of the Commission. This discretion will allow the Commission flexibility to adjust the minimum opening bids if circumstances warrant. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, i.e., before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Commission will not entertain any bidder requests to reduce the minimum opening bid on specific licenses.

83. Because all four spectrum blocks are being auctioned at the same time, under the same general conditions, we believe that it is appropriate to use a common baseline to establish the minimum opening bid formulae for all

of the licenses in the auction. The net high bids from prior C block auctions provide the most comprehensive broadband PCS baseline. We, therefore, have decided to base the minimum opening bids for each license available in Auction No. 22, including D, E, and F block licenses, on the most recent net high bid for the C block license in the same BTA.

84. We adopt the following formulae for calculating minimum opening bids:

1. 30 MHz licenses—5 percent of most recent net high bid for C block licenses in same BTA
2. 15 MHz licenses—2.5 percent of most recent net high bid for C block licenses in same BTA
3. 10 MHz licenses—1.6 percent of most recent net high bid for C block licenses in same BTA

These formulae will apply without regard to the upfront payment amount required for the same license in Auction No. 22. The specific minimum opening bid for each license available in Auction No. 22 is set forth in Attachment A of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above).

(3) Minimum Accepted Bids

85. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For Auction No. 22, we will utilize an exponential smoothing methodology (further explained in the Bidder Information Package) to calculate minimum bid increments. We retain the discretion to change the minimum bid increment if we determine that circumstances so dictate.

(4) High Bids

86. Each bid will be date-and time-stamped when it is entered into the FCC computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which bids are received by the Commission, starting with the earliest bid. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date and time-stamped according to when it was submitted, bids submitted by a bidder earlier in a round will have an earlier date-and time-stamp than bids submitted later in a round.

(5) Bidding

87. During a bidding round, a bidder may submit bids for as many licenses for which it is eligible, as well as withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently

reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round, and the date-and time-stamp of that bid reflect the latest time the bid was submitted.

88. All bidding will take place either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when handling 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, because four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 22.

89. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (1) the licenses applied for on FCC Form 175; and (2) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. A bidder also has the option to further tailor its bid submission screens to call up specified groups of licenses.

90. The bidding software requires bidders to login to the FCC auction system during the bidding round using the FCC account number, bidder identification number, and the confidential security codes provided in their registration materials. Bidders are strongly encouraged to download and print bid confirmations after they submit their bids.

91. The bid entry screen of the Automated Auction System software for Auction No. 22 allows bidders to place multiple increment bids to increase their high bids from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for a license.

92. To place a bid on a license, the bidder must enter a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount per the following formula: Amount Bid = High Bid + (Bid Mult * Bid Increment) Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is equal to one

bid increment, a bidder will enter "1" in the bid increment multiplier column and press submit.

93. For any license on which the FCC is designated as the high bidder (i.e., a license that has not yet received a bid in the auction, or a license on which the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases, no increment exists for the licenses, and bidders should enter "1" in the Bid Mult field. Note that any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount.

(6) Bid Removal and Bid Withdrawal

a. Procedures

94. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the software, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed. These procedures will enhance bidder flexibility and may serve to expedite the course of the auction.

95. Once a round closes, a bidder may no longer remove a bid. In the next round, however, a bidder may withdraw standing high bids from previous rounds using the "withdraw bid" function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g) and 1.2109. The procedure for withdrawing a bid and receiving a withdrawal confirmation is essentially the same as the bidding procedure described above in Part IV.B.(4).

96. The Commission will limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g) and 1.2109.

97. If a high bid is withdrawn, the license will be offered in the next round at the second highest bid price, which may be less than or, in the case of tie bids, equal to, the amount of the withdrawn bid, without any bid

increment. The FCC will serve as a "place holder" on the license until a new acceptable bid is submitted on that license.

b. Calculation

98. Generally, a bidder that withdraws a standing high bid during the course of an auction will be subject to a payment equal to the lower of: (1) the difference between the net withdrawn bid and the subsequent net winning bid; or (2) the difference between the gross withdrawn bid and the subsequent gross winning bid for that license. No withdrawal payment will be assessed if a subsequent bid exceeds the withdrawn bid.

(7) Round Results

99. The bids placed during a round are not published until the conclusion of that bidding period. After a round closes, the FCC will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 22 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

(8) Auction Announcements

100. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as the Internet and the FCC Bulletin Board System.

(9) Other Matters

101. As noted above in Part III.B., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Filers should make these changes on-line, and submit a letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Room 5202, Washington, DC 20554 (and mail a separate copy to Audrey Bashkin, Auctions and Industry Analysis Division), briefly summarizing the changes. Questions about other changes should be directed to Audrey Bashkin of the FCC Auctions and

Industry Analysis Division at (202) 418-0660.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

102. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bids and bidders for each license, and listing bid withdrawal payments due.

103. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable bidding credits). See 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any bid withdrawal amounts due under 47 CFR 1.2104(g), as discussed above in Part IV.B.(6). (Upfront payments are applied first to satisfy any bid withdrawal liability, before being applied toward down payments.)

B. Long-Form Application

104. Within ten business days after release of the auction closing notice, winning bidders must submit a properly completed long-form application and required exhibits for each license won in Auction No. 22. Under Section 1.2112(b) of the Commission's Rules, winning bidders for C or F block licenses that are small businesses or very small businesses (or consortia of small businesses or very small businesses) must include an exhibit demonstrating their eligibility for bidding credits. Further filing instructions will be provided to auction winners at the close of the auction.

C. Default and Disqualification

105. Any high bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). Under Section 1.2109 of the Commission's Rules, in such event the Commission may re-auction the license or offer it to the next highest bidders (in descending order) at their final bids. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in

future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

D. Refund of Remaining Upfront Payment Balances

106. All applicants that submitted upfront payments for a license in Auction No. 22 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

107. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. However, bidders that reduce their eligibility and remain in the auction are not eligible for partial refunds of upfront payments until the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request which includes wire transfer instructions, a Taxpayer Identification Number ("TIN"), and a copy of their bidding eligibility screen print, to: Federal Communications Commission, Billings and Collections Branch, Attn: Regina Dorsey or Linwood Jenkins, 445 12th Street, SW, Washington, DC 20554. Bidders can also fax their request to the Billings and Collections Branch at (202) 418-2843. Once the request has been approved, a refund will be sent to the address provided on the FCC Form 159.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Linwood Jenkins or Tim Dates at (202) 418-1995.

Federal Communications Commission.

Mark R. Bollinger,

Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 99-3334 Filed 2-10-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800

North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202-006190-087.

Title: Venezuelan American Maritime Association.

Parties: APL Co. PTE Ltd., Consorcio Naviero de Occidente C.A., Crowley American Transport, Inc., Ivaran Lines Limited, King Ocean Service de Venezuela, Seaboard Marine of Florida, Inc.

Synopsis: The proposed modification authorizes the members to charter space from each other, with any ocean common carrier operating independently in the trade, and with the parties of the Venezuelan Discussion Agreement on an ad hoc basis. The modification also permits the Association to enter into service contracts on behalf of any one or more of its members, and for any member, or two or more members, to independently enter into service contracts. The modification deletes current prohibitions on independent action with respect to loyalty contracts and service contracts. It also reduces the notice member lines must provide when taking independent action from ten days to two days. The parties have requested expedited review.

Agreement No.: 203-011261-004.

Title: ACL/Wallenius Space Charter and Cooperative Working Agreement.

Parties: Atlantic Container Line AB Wallenius Lines AB.

Synopsis: The proposed amendment eliminates the parties' authority to discuss and agree upon rates.

Agreement No.: 203-011448-002.

Title: U.S./Latin America Agreement.

Parties: A.P. Moller-Maersk Line Sea-Land Service, Inc.

Synopsis: The proposed amendment would expand the geographic scope of the Agreement to include Aruba, Curacao, and Trinidad. The parties have requested expedited review.

Agreement No.: 224-201068.

Title: Marine Terminal Operators of New Orleans Discussion Agreement.

Parties: Coastal Cargo, Inc., Gateway Terminal Services, Empire Stevedoring (LA), Inc., Maritrend, Inc., New Orleans Marine Contractors, Inc., I.T.O. Corporation, New Orleans Stevedoring Co., Transocean Terminal Operators, Inc.

Synopsis: Under the agreement, the parties may meet and discuss rates, charges and other conditions of service at the public wharves of the Port of New Orleans and, when appropriate, to

present recommendations and requests to the owners of these public wharves.

Dated: February 5, 1999.

By Order by the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-3335 Filed 2-10-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Mega Express, Inc., 6481 Orangethorpe Ave., #25, Buena Park, CA 90620,
Officer: Chung Hun Koh, President

Dated: February 8, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-3343 Filed 2-10-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

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

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 26, 1999.

A. Federal Reserve Bank of Atlanta
(Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713;