## FEDERAL COMMUNICATIONS COMMISSION

**47 CFR Parts 1 and 27**

**[AU Docket No. 26–191; DA 26–1219; FR ID 378621]**

# Auction of Flexible-Use Licenses in the Upper C-Band for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 115; Bidding Scheduled To Begin April 27, 2027

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** This document summarizes the procedures, deadlines, upfront payment, and minimum opening bid amounts adopted in the *Auction 115 Procedures Public Notice* for the Federal Communications Commission's (Commission) upcoming auction of 3,248 new flexible-use licenses in the 3.98–4.14 GHz portion of the Upper C-band. The *Auction 115 Procedures Public Notice* summarized here provides details regarding the procedures, terms, conditions, dates, and deadlines governing participation in Auction 115 bidding, as well as an overview of the post-auction application and payment processes.

**DATES:** Applications to participate in Auction 115 must be submitted prior to 6:00 p.m. Eastern Time (ET) on January 20, 2027. Upfront payments for Auction 115 must be received prior to 6:00 p.m. ET on March 18, 2027. Bidding in Auction 115 is scheduled to start on April 27, 2027.

**FOR FURTHER INFORMATION CONTACT:**

*General Auction 115 Information:* FCC Auctions Hotline at (888) 225–5322, option two; or (717) 338–2868; or *auction115@fcc.gov*.

*Auction 115 Legal Information:* Kathryn Hinton at (202) 418–0660, *Kathryn.Hinton@fcc.gov*.

*Upper C-band Licensing Information:* Madelaine Maior at (202) 418–1466, *Madelaine.Maior@fcc.gov,* or Andrew McArdell at (202) 418–1576, *Andrew.McArdell@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of the document in AU Docket No. 26–191, DA 26–1219 released on November 13, 2026 (*Auction 115 Procedures Public Notice*). The *Auction 115 Procedures Public Notice* includes the following attachment: Attachment A, Auction 115 License Inventory; Bidding Units, Upfront Payments, and Minimum Opening Bid Amounts. The complete text of the *Auction 115 Procedures Public Notice,* including its attachment, is available on the Commission's website at *www.fcc.gov/auction/115* or by using the search function for AU Docket No. 26–191 on the Commission's Electronic Comment Filing System (ECFS) web page at *www.fcc.gov/ecfs*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

## I. General Information

### *A. Introduction*

1. In the *Auction 115 Procedures Public Notice,* the Office of Economics and Analytics (OEA) and the Wireless Telecommunications Bureau (WTB) establish the procedures and minimum opening bid amounts to be used for Auction 115, an auction of 3,248 new flexible-use licenses in the 3.98–4.14 GHz portion of the Upper C-band.

2. Bidding in Auction 115 is scheduled to start on April 27, 2027. Auction 115 will be conducted in two phases using an ascending clock auction format for bidding on generic license blocks and then an assignment auction phase to determine frequency-specific license assignments. The *Auction 115 Procedures Public Notice* provides details regarding the procedures, terms, conditions, dates, and deadlines governing participation in Auction 115 bidding, as well as an overview of the post-auction application and payment processes.

### *B. Background and Relevant Authority*

3. The Commission is offering licenses in Auction 115 to fulfill a congressional directive that it grant licenses for at least 100 megahertz of spectrum in the 3.98–4.2 GHz band (Upper C-band) through a system of competitive bidding that is completed not later than two years after July 4, 2025. *See* Public Law 119–21, 40002(b)(2), 139 Stat. 72 (2025). In the *Upper C-band Report and Order,* 91 FR 55281 (August 27, 2026), the Commission made available through auction 160 megahertz of spectrum in the 3.98–4.14 GHz portion of the Upper C-band for new flexible-use licenses. Specifically, the Commission introduced terrestrial wireless use in the Upper C-band by adding a primary non-Federal mobile, except aeronautical mobile, allocation to the 4.0–4.16 GHz band nationwide and removing the Fixed Satellite Service (FSS) allocation within the contiguous United States. The Commission also designated a 20-megahertz guard band at 4.14–4.16 GHz to foster coexistence with FSS operations that are repacked and remain in 4.16–4.2 GHz. In addition, to create a single 3.7 GHz Service, the Commission generally extended rules that are applicable to part 27 services in the 3.7–3.98 GHz band (Lower C-band) to new flexible use operations in 3.98–4.14 GHz, including those relating to the assignment of licenses by competitive bidding. The Commission likewise generally extended service-specific rules that already apply to terrestrial wireless operations in the Lower C-band to the 3.98–4.14 GHz portion of the Upper C-band.

4. On July 24, 2026, in accordance with 47 U.S.C. 309(j)(3), as amended, OEA and WTB released the *Auction 115 Comment Public Notice,* 91 FR 48809 (August 3, 2026), seeking comment on certain competitive bidding and other various procedures to be used in Auction 115. Five parties filed comments in response to the *Auction 115 Comment Public Notice,* and three parties filed reply comments.

5. The Commission's rules and decisions provide the underlying authority for the procedures OEA and WTB adopt for Auction 115. As specified in 47 CFR 27.1401, any auction of licenses for spectrum in the 3.7 GHz Service, including the 3.98–4.14 GHz portion of the Upper C-band, is to be governed by the bidding procedures set forth in part 1, subpart Q. The Commission has also adopted rules regarding the 3.7 GHz Service, as well as the licensing and operating rules that are applicable to all part 27 services.

6. Auction 115 applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including Commission decisions regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. In addition, applicants must be thoroughly familiar with the procedures, terms, and conditions contained in the *Auction 115 Procedures Public Notice* and any future public notices that may be released in this proceeding.

7. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. OEA and WTB may amend or supplement the information contained in their public notices at any time, and may issue public notices to convey any new or supplemental information that may generally apply to applicants. Pursuant to the Commission's rules, OEA and WTB also retain the authority to implement further procedures during

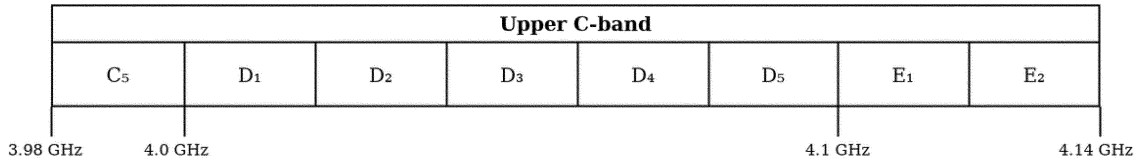
the course of this auction. It is the responsibility of all applicants to remain current with all Commission rules and public notices pertaining to Auction 115.

*C. Description of Licenses To Be Offered in Auction 115*

8. Auction 115 will offer 3,248 new flexible-use licenses for spectrum in the 3.98–4.14 GHz portion of the Upper C-band throughout the contiguous United States subject to clearing requirements. OEA and WTB will offer 160 megahertz of spectrum licensed on an unpaired basis in eight 20-megahertz blocks by partial economic area (PEA) in the contiguous 48 states and the District of Columbia (PEAs 1–41, 43–211, 213–263, 265–297, 299–359, and 361–411). The 20 megahertz in the 4.14–4.16 GHz portion of the Upper C-band will be a guard band and not available for auction.

9. Figure 1 shows the band plan for the 3.98–4.14 GHz band.

Figure 1: 3.98–4.14 GHz Band Allocations in the Contiguous United States




10. All licenses for the 3.98–4.14 GHz portion of the Upper C-band will be issued for 15-year, renewable license terms. A licensee may provide any services permitted under terrestrial fixed or mobile allocations, as set forth in the non-Federal Government column of the Table of Frequency Allocations in 47 CFR 2.106, as modified by the *Upper C-band Report and Order*.

11. Each potential bidder is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the potential uses of a license that it may seek in Auction 115. In addition to the typical due diligence considerations that the Commission encourages of bidders in all auctions, OEA and WTB call particular attention in Auction 115 to the clearing process and license conditions described in the *Upper C-band Report and Order*. The International Air Transport Association recently asked the Court of Appeals for the D.C. Circuit to review the *Upper C-band Report and Order* and direct the agency to make foreign-registered aircraft owners and operators eligible for the radio altimeter retrofit rebates or, alternatively, to remand to the Commission for a further rulemaking proceeding on their eligibility for reimbursement. *See* Petition for Review, *International Air Transport Association* v. *FCC,* No. 26–1225 (D.C. Cir. Aug. 31, 2026); Notice of Appeal, *International Air Transport Association* v. *FCC,* No. 26–1226 (D.C. Cir. Aug. 31, 2026). Each applicant should closely follow releases from the Commission concerning these issues and consider carefully the technical and economic implications for commercial use of the 3.98–4.14 GHz portion of the Upper C-band. The Commission makes no representations or warranties about the use of this spectrum for particular services, or about the information in Commission databases that is furnished by outside parties.

*D. Transition of Incumbent Operations*

12. Potential applicants in Auction 115 should consider carefully the process for transitioning incumbent operations out of 3.98–4.16 GHz when developing business plans, assessing market conditions, and evaluating the availability of equipment for 3.7 GHz Service operations. Each applicant should follow closely releases from the Commission concerning transitioning incumbent operations out of 3.98 GHz–4.16 GHz.

13. OEA and WTB decline one commenter's request that the Commission prepare a consolidated summary of information from multiple dockets concerning known incumbent sites, anticipated clearing timelines, and continuing federal or satellite operations. Potential bidders have long been responsible for conducting their own due diligence in evaluating licenses offered at auction, including assessing the technical, operational, regulatory, and other circumstances that may bear on the value and utility of a particular license. OEA and WTB do not believe that the Commission should substitute its own synthesis of those materials for the independent investigation and analysis that prospective bidders are expected to undertake. In particular, the Commission does not have insight into the particular circumstances and considerations that may inform each prospective bidder's evaluation of a license and therefore cannot determine which information may be relevant or significant to that evaluation.

*E. Auction Specifics*

1. Auction Title and Start Date

14. The auction of licenses in the Upper C-band will be referred to as ''Auction 115.'' Bidding in Auction 115 will begin on April 27, 2027. Pre-bidding dates and deadlines are listed in the Auction Dates and Deadlines section herein.

15. The initial schedule for bidding rounds in Auction 115 will be announced by public notice at least one week before bidding begins. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

2. Auction Dates and Deadlines

16. The following dates and deadlines apply to Auction 115:

| | |
|---|---|
| Auction Application Tutorial Available (via internet) | No later than December 11, 2026. |
| Short-Form Application (FCC Form 175): Filing Window Opens | January 6, 2027, 12:00 p.m. Eastern Time (ET). |
| Short-Form Application (FCC Form 175): Filing Window Deadline: | January 20, 2027, 6:00 p.m. ET. |
| Upfront Payments (via wire transfer) | March 18, 2027, 6:00 p.m. ET. |
| Bidding Tutorial Available (via internet) | No later than April 5, 2027. |
| Mock Auction | April 21, 2027. |
| Auction Bidding Begins | April 27, 2027. |

3. Auction Delay, Suspension, or Cancellation

17. OEA and WTB adopt their proposal that at any time before or during the bidding process, OEA, in conjunction with WTB, may delay, suspend, or cancel bidding in Auction 115 in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. This approach has proven effective in resolving exigent circumstances in previous auctions, and OEA and WTB find no reason to depart from it here. OEA will notify participants of any such delay, suspension, or cancellation by public notice and/or through the announcement function in the FCC Auction Bidding System (referred to as the ''bidding system'' throughout the *Auction 115 Procedures Public Notice*). If the bidding is delayed or suspended, OEA, in its sole discretion, may elect to resume the auction starting from the beginning of the current round or from some previous round, or it may cancel the auction in its entirety. OEA and WTB will exercise the authority to delay, suspend, or cancel bidding in Auction 115 solely at their discretion.

4. Requirements for Participation

18. Those wishing to participate in Auction 115 must:

- Submit a short-form application (FCC Form 175) electronically prior to 6:00 p.m. ET on January 20, 2027, following the filing procedures and other instructions set forth in the *Auction 115 Procedures Public Notice* and the Auction 115 FCC Form 175 Instructions;
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) before 6:00 p.m. ET on March 18, 2027, following the procedures and instructions set forth in the *Auction 115 Procedures Public Notice;* and
- Comply with all provisions outlined in the *Auction 115 Procedures Public Notice* and applicable Commission rules.

*F. Educational Materials*

19. Before the opening of the short-form application filing window for Auction 115, detailed educational information will be provided to potential participants in various formats on the Auction 115 website. Specifically, OEA and WTB will provide educational materials on the pre-bidding processes in advance of the opening of the short-form application window, beginning with the Auction 115 FCC Form 175 Instructions, which will be posted at the same time as the *Auction 115 Procedures Public Notice.* These materials will be available in the Education section on the Auction 115 website at *www.fcc.gov/auction/115.* In addition, OEA and WTB will provide an online application procedures tutorial for the auction, covering information on pre-bidding preparation, completing short-form applications, and the application review process.

20. Additionally, in advance of the start of the mock auction, OEA and WTB will provide educational materials on the bidding procedures for Auction 115, including a user guide for the bidding system, bidding system file formats, and an online bidding procedures tutorial. These materials will provide detailed information on bidding features specific to the ascending clock auction format, including intra-round bidding and proxy bids. Accordingly, the educational materials will be released as soon as reasonably possible to provide qualified bidders time to review them and ask questions of Commission staff before bidding begins.

21. OEA and WTB believe that parties interested in participating in Auction 115 will find the interactive, online tutorials an efficient and effective way to further their understanding of the application and bidding processes. Viewers can navigate the presentation outline to review specific topics in which they may be interested. Additional features of these web-based tools include links to auction-specific Commission releases, email links for contacting Commission staff, and screen shots of the online auction application and bidding systems. The online tutorials will be accessible in the Education section on the Auction 115 website at *www.fcc.gov/auction/115.* Once posted, the tutorials will remain continuously accessible.

## II. Pre-Bidding Activities and Considerations

*A. Due Diligence*

22. OEA and WTB remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the licenses that it is seeking in Auction 115 and that it is required to certify, under penalty of perjury, that it has read the *Auction 115 Procedures Public Notice* and has familiarized itself with the auction procedures and the rules for obtaining a license and operating facilities in the 3.98–4.14 GHz portion of the 3.7 GHz Service. The Commission makes no representations or warranties about the use of this spectrum or these licenses for particular services. Each applicant should be aware that a Commission auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success.

23. Given mid-band spectrum's critical role in today's spectral environment, the Commission adopted strict performance requirements for licensees in the 3.98–4.14 GHz portion of the Upper C-band to ensure that this valuable spectrum does not lie fallow and that licensees begin providing service to consumers in a timely manner. Accordingly, prospective bidders should have no doubt: entities that acquire spectrum for speculative purposes without both a concrete plan and the demonstrated ability to satisfy these requirements assume a substantial regulatory risk. The Commission will enforce these requirements, and a licensee's failure to provide the required service will trigger significant consequences, including automatic termination of its licenses—without further Commission action—and the loss of the rights for which it paid at auction.

24. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, OEA and WTB encourage each potential bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 115 license, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. OEA and WTB urge each applicant to inspect any prospective sites for communications facilities located in, or near, the geographic area for which it plans to bid, to confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding any applicable federal, state, and local requirements.

25. OEA and WTB also encourage each applicant in Auction 115 to continue to conduct its own research

throughout the auction in order to determine the existence of pending or future administrative or judicial proceedings that might affect its decision on continued participation in the auction, including an appeal of the *Upper C-band Report and Order* recently filed in the D.C. Circuit. Each Auction 115 applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on licenses available in this auction. The due diligence considerations mentioned in the *Auction 115 Procedures Public Notice* do not constitute an exhaustive list of steps that should be undertaken prior to participating in Auction 115. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests. For example, applicants should pay particular attention to the framework adopted in the *Upper C-band Report and Order* that requires Upper C-band licensees to pay their allocated share to reimburse eligible incumbents for the reasonable and necessary costs of transitioning existing FSS C-band services out of the 4.0–4.16 GHz band in the contiguous United States. Upper C-band licensees must also pay their allocated share of incentive payments to eligible space station operators as a license condition in the event that those operators meet their clearing obligations by the relevant Transition Deadlines, as explained in the *Upper C-band Report and Order*. Finally, Upper C-band licensees are also responsible for contributing their allocated share to fund radio altimeter retrofit rebates and cover the reasonable costs of the Upper C-band Clearinghouse and, if it is selected by WTB via procurement, the Relocation Coordinator.

26. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the licenses available in Auction 115. Each potential bidder is responsible for undertaking research to ensure that any licenses won in the auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

27. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases, including that provided by incumbent licensees, or any third-party databases, such as court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, the applicant must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases.

*B. Licensing Considerations*

28. In addition to the transition issues discussed herein, potential bidders should be aware of the following licensing considerations concerning the use of the 3.7 GHz Service frequencies they acquire in Auction 115.

1. International Coordination

29. Potential bidders seeking licenses for geographic areas adjacent to the Canadian and Mexican borders should be aware that the use of the 3.7 GHz Service frequencies to be licensed in Auction 115 are subject to current and future agreements with the governments of Canada and Mexico.

30. The Commission routinely works with the United States Department of State and Canadian and Mexican government officials to ensure the efficient use of the spectrum as well as interference-free operations in the border areas near Canada and Mexico. Until such time as any adjusted agreements, as needed, between the United States, Mexico, and/or Canada can be reached, operations in the 3.98–4.14 GHz band must not cause harmful interference across the border, consistent with the terms of the agreements currently in force.

2. Environmental and Historic Preservation Requirements

31. Licensees must comply with the Commission's rules set forth in 47 CFR 1.1307(b) and 1.1310 regarding human exposure to radiofrequency (RF), the National Historic Preservation Act (NHPA), and any other environmental statutes that may apply. OEA and WTB note that in October 2026, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 25–217, FCC 26–64 (Oct. 1, 2026), adopting updates to its rules implementing the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* Potential bidders in Auction 115 should be mindful that licensees will be subject to the amended rules, once effective. The rules will become effective 30 days after the date of publication of the Report and Order in the **Federal Register**, or after the Office of Management and Budget under the Paperwork Reduction Act approves the information collections that the rules contain. *See* 91 FR 74024 (November 17, 2026). Licensees and other applicants that propose to build certain types of communications facilities for licensed service must follow the Commission's RF rules set forth in 47 CFR 1.1307(b) and 1.1310, and the Commission's NHPA procedures prior to constructing the facilities. If an environmental assessment is required under the Commission's rules, then facilities may not be constructed until environmental processing is completed. Under NHPA, a licensee or applicant must follow the procedures in 47 CFR 1.1320, the *Nationwide Programmatic Agreement for Collocation of Wireless Antennas,* and the *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process* (*Wireless NPA*). The Commission's decision in the Report and Order to remove 47 CFR 1.1320 from Subpart I—Procedures Implementing the National Environmental Policy Act of 1969—and to move it to the newly created Subpart HH—Procedures for Implementing the National Historic Preservation Act of 1966 will become effective after the Office of Management and Budget under the Paperwork Reduction Act approves the information collections that the rules contain. OEA and WTB note that the Commission sought additional comment in the Further Notice of Proposed Rulemaking, 91 FR 66062 (October 19, 2026), on the agency's NHPA framework, including how its licensing of spectrum relates to the definition of an ''undertaking,'' which is the trigger for NHPA review, as well as whether to adopt efficiencies in the NHPA process. Potential bidders in Auction 115 should be mindful that, if the Commission amends its NHPA rules, licensees will be subject to the amended rules. Compliance with 47 CFR 106 of the NHPA requires Tribal consultation.

3. Mobile Spectrum Holdings

32. OEA and WTB remind bidders of the Commission's mobile spectrum holdings policies applicable to the 3.98–4.14 GHz band. Specifically, in the *Upper C-band Report and Order,* the Commission did not impose a pre-auction bright-line limit on spectrum acquisitions in the 3.98–4.14 GHz band. Instead, the Commission determined that it will add this 160 megahertz of spectrum to the spectrum screen once Auction 115 closes. The Commission also determined that it will perform case-by-case review of the long-form license applications filed as a result of Auction 115, as well as for secondary market transactions.

4. Quiet Zones

33. Potential bidders are advised that licenses in the 3.98–4.14 GHz portion of the Upper C-band may include geographic areas located within or affected by Quiet Zones. Winning bidders must ensure compliance with all applicable Quiet Zone requirements.

*C. Short-Form Applications: Due Before 6:00 p.m. ET on January 20, 2027*

34. In order to be eligible to bid in Auction 115, an applicant must first submit a short-form application (FCC Form 175) via the Auction Application Portal (AAP) in the AAS, following the instructions set forth in the Auction 115 FCC Form 175 Instructions. The short-form application will become available with the opening of the initial filing window and must be submitted prior to 6:00 p.m. ET on January 20, 2027. Late applications will not be accepted. No application fee is required for the short-form application at the time of filing.

35. Applications may be filed at any time beginning at 12:00 p.m. ET on January 6, 2027, until the filing window closes at 6:00 p.m. ET on January 20, 2027. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the initial filing deadline.

36. An applicant must click on the CERTIFY & SUBMIT button on the *Certify & Submit* screen to successfully submit its FCC Form 175 and any modifications; otherwise, the application, or changes to the application, will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 175 is provided in the Auction 115 FCC Form 175 Instructions. Applicants requiring technical assistance should contact FCC Auctions Technical Support using the contact information provided in the Contact Information section in the *Auction 115 Procedures Public Notice.* In order to provide better service to the public, all calls to Technical Support are recorded.

*D. Application Processing and Minor Modifications*

1. Public Notice of Applicant's Initial Application Status and Opportunity for Minor Modifications

37. After the deadline for filing short-form applications for Auction 115, Commission staff will review all timely submitted applications to determine whether each applicant has complied with the application requirements and provided all information concerning its qualifications for bidding. After this review is completed, OEA and WTB will issue a public notice with each applicant's initial application status, identifying (1) those that are complete; and (2) those that are incomplete or deficient because of minor defects that may be corrected. The public notice also will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. Commission staff will send an electronic copy of the public notice by email, as well as a paper copy by overnight delivery, to the contact address listed in the FCC Form 175 for each applicant. In addition, each applicant with an incomplete application will be sent information on the nature of the deficiencies in its application, along with the name and phone number of a Commission staff member who can answer questions specific to the application. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment.

38. After the initial application filing deadline on January 20, 2027, applicants can make only minor modifications to their short-form applications. Minor amendments include any changes that are not major, such as: the deletion or addition of authorized bidders (to a maximum of three); revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person; correcting typographical errors; and supplying or correcting information as requested to support the certifications made in the application. Major modifications (*e.g.,* change of license area selection, change in ownership that would constitute an assignment or transfer of control of the applicant, change in the required certifications, change in applicant's legal classification that results in a change in control, or change in claimed eligibility for a higher percentage of bidding credit) will not be permitted. If an amendment reporting changes is a ''major amendment,'' as described in 47 CFR 1.2105(b)(2), the major amendment will not be accepted and may result in the dismissal of the application. After the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure any deficiencies in its application or provide any additional information that may affect Commission staff's ultimate determination of whether and to what extent the applicant is qualified to participate in Auction 115 and whether the applicant may be eligible to pursue any bidding credit claim.

39. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the applicant's short-form application, unless the applicant's certifying official or contact representative notifies the Commission in writing that another representative is authorized to speak on behalf of the applicant. Authorizations may be sent by email to *auction115@fcc.gov.*

2. Public Notice of Applicant's Final Application Status

40. After Commission staff review resubmitted applications for Auction 115 and evaluate upfront payment submissions, Commission staff will release a public notice identifying applicants that have become qualified bidders for the auction. A *Qualified Bidders Public Notice* will be issued before bidding in the auction begins. Qualified bidders are those applicants with submitted short-form applications that are deemed timely filed and complete, and that have made a timely and sufficient upfront payment (as described herein).

*E. Upfront Payments*

41. After submitting its short-form application, an applicant will have access to an electronic blank version of the FCC Remittance Advice Form (FCC Form 159, February 2003 edition). In order to be eligible to bid in Auction 115, a sufficient upfront payment and a complete and accurate FCC Form 159 must be received before 6:00 p.m. ET on March 18, 2027. An accurate and complete FCC Form 159 must accompany each payment. Proper completion of this form is critical to ensuring correct crediting of upfront payments. Payers are responsible for ensuring that all information entered on the FCC Form 159, including payment amounts, is accurate. Instructions for completing FCC Form 159 for Auction 115 are provided herein.

1. Making Upfront Payments by Wire Transfer for Auction 115

42. All upfront payments for Auction 115 must be transmitted by electronic wire transfer directly from a bank or other financial institution to the proper account at the U.S. Treasury. Wire transfer payments for Auction 115 must be received before 6:00 p.m. ET on March 18, 2027. No other payment method is acceptable. To avoid

untimely payments, applicants should discuss arrangements (including bank closing schedules and other specific bank wire transfer requirements, such as an in-person written request before a specified time of day) with their bankers several days before they plan to make the wire transfer, and must allow sufficient time for the transfer to be initiated and completed before the deadline. The following information will be needed:

*ABA Routing Number:* 021030004
*Receiving Bank:* TREAS NYC, 33 Liberty Street, New York, NY 10045
*Beneficiary:* FCC, 45 L Street, NE, 4th Floor, Washington, DC 20554
*Account Number:* 827000001001
*Originating Bank Information (OBI Field):* (Skip one space between each information item)
''AUCTIONPAY''
*Applicant FCC Registration Number (FRN):* (use the same FRN as used on the applicant's FCC Form 159, block 21)
*Payment Type Code:* (same as FCC Form 159, block 24A: ''U115'')

**Note:** The beneficiary account number is specific to the upfront payments for Auction 115. Do not use a beneficiary account number from a previous auction.

43. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must fax a completed FCC Form 159 to the FCC at (202) 418–2843. Alternatively, the completed form can be scanned and sent as an attachment to an email to *RROGWireFaxes@fcc.gov.* On the fax cover sheet or in the email subject header, write ''Wire Transfer—Auction Payment for Auction 115.'' To meet the upfront payment deadline, an applicant's payment must be credited to the Commission's account for Auction 115 before the deadline.

44. Each applicant is responsible for ensuring the timely submission of its upfront payment and for timely filing an accurate and complete FCC Form 159. An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer. Each applicant is responsible for obtaining confirmation from its financial institution that its wire transfer to the U.S. Treasury was successful and from Commission staff that its upfront payment was timely received and that it was deposited into the proper account. As a regulatory requirement, the U.S. Treasury screens all payments from all financial institutions before deposits are made available to specified accounts. If wires are suspended, the U.S. Treasury may direct questions regarding any transfer to the financial institution initiating the wire. Each applicant must take care to assure that any questions directed to its financial institution(s) are addressed promptly. To receive confirmation from Commission staff that an applicant's upfront payment was timely received and deposited into the proper account, contact Douglas Deets of the Office of Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418–0903, or Theresa Meeks at (202) 418–2945.

45. Please note the following information regarding upfront payments:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction 115 go to an account number different from the accounts used in previous FCC auctions.

46. Failure to deliver a sufficient upfront payment as instructed herein before the 6:00 p.m. ET deadline on March 18, 2027, will result in dismissal of the short-form application and disqualification from participation in the auction.

2. Completing and Submitting FCC Form 159

47. The following information supplements the standard instructions for FCC Form 159 and is provided to help ensure the correct completion of FCC Form 159 for upfront payments for Auction 115. Applicants need to complete FCC Form 159 carefully because:

- Mistakes may affect bidding eligibility; and
- Lack of consistency between information provided in FCC Form 159, FCC Form 175, and correspondence about an application may cause processing delays.

48. Therefore, appropriate cross-references between FCC Form 159 and FCC Form 175 are described herein.

| Block number | Required information |
|---|---|
| 1 | LOCKBOX #—Leave Blank. |
| 2 | Payer Name—Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same name as in FCC Form 175. |
| 3 | Total Amount Paid—Enter the amount of the upfront payment associated with the FCC Form 159. |
| 4–8 | Street Address, City, State, ZIP Code—Enter the street mailing address (not post office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section. |
| 9 | Daytime Telephone Number—Enter the telephone number of a person knowledgeable about this upfront payment. |
| 10 | Country Code—For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service). |
| 11 | Payer FRN—Enter the payer's 10-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES). |
| 21 | Applicant FRN (Complete only if applicant is different than payer)—Enter the applicant's 10-digit FRN registered in CORES. |
| 24A | Payment Type Code—Enter ''U115''. |
| 25A | Quantity—Enter the number ''1''. |
| 26A | Fee Due—Amount of Upfront Payment. |
| 27A | Total Fee—Will be the same amount as 26A. |
| 28A | FCC Code 1—Enter the number ''115'' (indicating Auction 115). |

Notes:

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

• Since credit card payments will not be accepted for upfront payments for an auction, leave Section E blank.

3. Upfront Payments and Bidding Eligibility

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

50. Applicants that are former defaulters, as described in more detail herein, must pay upfront payments 50% greater than non-former defaulters. For purposes of classification as a former defaulter or a former delinquent, defaults and delinquencies of the applicant itself and its controlling interests are included.

51. An applicant must make an upfront payment sufficient to obtain bidding eligibility on the generic blocks on which it will bid. OEA and WTB adopt the proposals in the *Auction 115 Comment Public Notice* to set upfront payments based on the MHz-pops of each generic block offered in the auction, and that the amount of the upfront payment submitted by an applicant will determine an applicant's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids in any single round. In order to bid for a generic block in a PEA, qualified bidders must have a current eligibility level that meets or exceeds the number of bidding units assigned to that generic block. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one generic block in a PEA selected on its FCC Form 175 for Auction 115, or else the applicant will not become qualified to participate in the auction. The total upfront payment does not affect the total dollar amount the bidder may bid.

52. The Commission has delegated authority to OEA and WTB to determine appropriate upfront payments for each license being auctioned, taking into account such factors as the efficiency of the auction process and the potential value of similar licenses. In the *Auction 115 Comment Public Notice,* OEA and WTB proposed upfront payments for a generic 20-megahertz block in a PEA based on $0.015 per MHz-pop for PEAs 1–50, $0.003 per MHz-pop for PEAs 51–100, and $0.0015 per MHz-pop for all other PEAs, subject to a minimum of $500 per block. The proposed upfront payments equal approximately half the proposed minimum opening bids, which are established and adopted as described in the Minimum Opening Bids section herein.

53. One commenter supports OEA and WTB's proposed upfront payments. However, another commenter contends that the proposed upfront payments and bidding units based on standard MHZ-pop calculations may be too high in low-density and rural areas relative to expected valuations and deployment costs. OEA and WTB are not persuaded to modify their proposal, however, because this commenter provides no data or other empirical support for his contention that the proposed amounts do not appropriately reflect market conditions or would discourage auction participation.

54. OEA and WTB first adopted this tiered approach for upfront payments and minimum opening bids in Auctions 101 and 102 in response to concerns that a uniform per-MHz-pop rate could result in disproportionately high upfront payments in less densely populated markets and discourage participation in rural areas. OEA and WTB's experience in Auctions 101 and 102, as well as in Auctions 103, 107, and 113, where OEA and WTB likewise used different per-MHz-pop amounts based on market population or size, demonstrates that this methodology appropriately accounts for differences among markets while establishing reasonable upfront payments.

55. For example, Auction 107, which offered licenses in the Lower C-band portion of the 3.7 GHz Service, used the same population and price tiers for upfront payment and minimum opening bid amounts that OEA and WTB proposed for Auction 115. Because all licenses offered in Auction 107 were sold, license valuations in that auction exceeded their minimum opening bid amounts, indicating that those amounts were not unduly high even in low-density and rural markets. Accordingly, OEA and WTB find no basis to depart from their proposal to set upfront payments equal to approximately half the minimum opening bid amounts, and therefore adopt it for Auction 115. The upfront payment amount per block in each PEA is set forth in the Attachment A file on the Auction 115 website at *www.fcc.gov/auction/115.*

56. Additionally, for the reasons set forth in the *Auction 115 Comment Public Notice,* OEA and WTB adopt the proposal to assign each generic spectrum block in a given PEA a specific number of bidding units, equal to one bidding unit per $10 of the upfront payment, which is necessary for implementing the activity requirement described in the discussion in the Activity Rule section herein, and facilitates the efficient conduct of the auction. The number of bidding units for one generic block in a given PEA is fixed and does not change during the auction as prices change. Thus, in calculating its upfront payment amount, and hence its initial bidding eligibility, an applicant in Auction 115 must determine the maximum number of bidding units on which it may wish to bid in any single round and submit an upfront payment amount covering that total number of bidding units. In order to make this calculation, an applicant should add together the bidding units for the generic blocks on which it seeks to be active in any given round. An applicant must have sufficient bidding units to bid on the number of generic blocks it seeks to be active on at the same time (*i.e.,* to bid on two generic blocks in the same PEA, an applicant must have twice as many bidding units as is required to bid on one generic block in the PEA). Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.

EXAMPLE—UPFRONT PAYMENTS AND BIDDING ELIGIBILITY

| PEA | Description | Bidding units | Upfront payment |
|---|---|---|---|
| PEA186 | Rock Hill, SC | 1,200 | $12,000 |
| PEA194 | State College, PA | 960 | 9,600 |

If a bidder wishes to bid on one block in both of these PEAs in a round, it must have selected both PEAs on its FCC Form 175 and purchased at least 2,160 bidding units (1,200 + 960) of bidding eligibility. If a bidder only wishes to bid on one block in one of these PEAs, but not in both, purchasing 1,200 bidding units would allow the bidder to bid on one block in either PEA, but not in both at the same time. If the bidder purchased only 960 bidding units, the bidder would only have enough eligibility to bid on one block in PEA194 but not for the one in PEA186.

57. If an applicant is a former defaulter, it must calculate its upfront payment for the maximum amount of generic blocks in each PEA on which it plans to bid by multiplying the number of bidding units on which it wishes to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will calculate the number of bidding units a non-former defaulter would get for the upfront payment received, divide that number by 1.5, and round the result up to the nearest bidding unit.

*F. Auction Registration*

58. All qualified bidders for Auction 115 are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight delivery. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the web address and instructions for accessing and logging in to the bidding system, and the Auction Bidder Line phone number. In addition, Commission staff will send an electronic copy of the registration materials by email, as well as links to the online bidding procedures tutorial and bidding system user guide, to each authorized bidder listed in a qualified bidder's FCC Form 175. Any qualified bidder for Auction 115 that has not received the registration materials by noon on April 14, 2027, should call the Auctions Hotline at (717) 338–2868. Each qualified bidder is responsible for ensuring it has received all the registration materials.

59. The Commission will no longer use RSA SecurID® tokens for authentication, as it has in previous auctions. For the first time, authorized bidders in Auction 115 will be required to complete multifactor authentication using Okta to access the bidding system. To authenticate with Okta, bidders must set up a token based multifactor authentication method such as Okta Verify® or Google Authenticator®. Accordingly, qualified bidders will not receive RSA SecurID® tokens with their registration materials.

*G. Remote Electronic Bidding via the Bidding System*

60. Bidders will be able to participate in Auction 115 over the internet using the bidding system. In addition, bidders will have the option of placing bids by telephone through a dedicated auction bidder line. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Further, telephonic bid assistants will require authorized bidders to verify their identity by providing authenticating details, including a six-digit one time helpdesk authentication token code. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of 10 minutes. The toll-free telephone number for the auction bidder line will be provided to qualified bidders prior to the start of bidding in the auction.

61. Only qualified bidders are permitted to bid. In order to access the bidding system, each authorized bidder must have their own FCC Username account that is associated with the applicant's FRN in CORES. In addition, as discussed herein, each authorized bidder must complete multifactor authentication using Okta in order to access the bidding system.

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

63. To the extent an issue arises with the bidding system itself, the Commission will take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the bidding system or attributable to a bidder, including, but not limited to, a bidder's hardware, software, or internet access problem that prevents the bidder from submitting a bid prior to the end of a round, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Similarly, if an issue arises due to bidder error using the bidding system, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. After the close of a bidding round, the results of bid processing will not be altered absent evidence of any failure in the bidding system. Accordingly, bidders should allow sufficient time to submit bids before the close of each bidding round to account for any technical issues or user error.

*H. Mock Auction*

64. All qualified bidders will be eligible to participate in a mock auction. The mock auction, which will begin on April 21, 2027, will enable qualified bidders to become familiar with the bidding system and to practice submitting bids prior to the auction. OEA and WTB recommend that all qualified bidders, including all their authorized bidders, participate to ensure that they can log in to the bidding system, and gain experience with the bidding procedures. Participating in the mock auction may reduce the likelihood of a bidder making a mistake during the auction. Details regarding the mock auction will be announced in the *Qualified Bidders Public Notice* for Auction 115.

*I. Fraud Alert*

65. As is the case with many business investment opportunities, unscrupulous parties may attempt to use Auction 115 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is an unsolicited contact or ''cold call,'' usually by phone or email.
- The sales representative makes representations that: (a) the Internal Revenue Service, Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials may include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

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

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

67. Complaints about specific deceptive investment schemes should be directed to the FTC, the SEC, or the National Consumer League's Fraud

Center at *https://fraud.org/* or (202) 835–3323, Ext. 815.

## III. Short-Form Application Contents and Certifications

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

68. An application to participate in Auction 115, referred to as a short-form application or FCC Form 175, provides information concerning the applicant's legal, technical, and/or financial qualifications to participate in a Commission auction for spectrum licenses. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, a party seeking to participate in Auction 115 must file a short-form application in which it certifies, under penalty of perjury, that it is qualified to participate. Eligibility to participate in Auction 115 is determined based on an applicant's short-form application and certifications and on the applicant's upfront payment. Pursuant to the Commission's competitive bidding rules, each applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and it must confirm that it is legally, technically, financially, and otherwise qualified to hold a Commission license. An auction applicant's failure to make the required certifications in its short-form application by the applicable filing deadline would render its application unacceptable for filing, its application would be dismissed with prejudice, and it would be ineligible to participate further in the auction. After bidding closes, in the second phase of the process, each winning bidder in Auction 115 must file a more comprehensive post-auction long-form application (FCC Form 601) for the licenses it wins in the auction, and it must have a complete and accurate ownership disclosure information report (FCC Form 602) on file with the Commission. OEA and WTB remind applicants that being deemed qualified to bid in Auction 115 does not constitute a determination that a party is qualified to hold a Commission license or is eligible for a designated entity bidding credit.

69. A party seeking to participate in Auction 115 must file an FCC Form 175 electronically via the AAP in the AAS prior to 6:00 p.m. ET on January 20, 2027, following the procedures prescribed in the Auction 115 FCC Form 175 Instructions. In order to access the AAP to create a new short-form application for an applicant, or save, edit, view, and/or withdraw an existing application for the applicant, an individual must: (1) have an FCC Username account in CORES, (2) have that FCC Username account associated with the applicant's FRN in CORES by an Administrator of that FRN, and (3) be assigned the appropriate Auctions Permissions in the AAP by the Administrator of that FRN. The AAS includes security features, including the use of multifactor authentication and Auctions Permissions, that must be set up before you can create a short-form application. OEA and WTB encourage individuals who expect to create, edit, or submit a short-form application on behalf of an applicant to take the steps necessary to access the AAP and obtain Auction Permission for the applicant's FRN prior to the opening of the filing window. Detailed instructions describing the process for designating Administrators for an FRN in CORES, setting up multifactor authentication for logging into the AAP, and granting Auctions Permissions are available on the FCC Auctions Division's ''About Form 175'' web page at *www.fcc.gov/economics-analytics/auctions-division/auctions/about-form-175.*

70. OEA and WTB describe more fully herein the information disclosures and certifications required in the short-form application.

71. An Auction 115 applicant bears full responsibility for submitting an accurate, complete, and timely short-form application. Pursuant to the Commission's competitive bidding rules, an applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and an applicant must confirm that it is legally, technically, financially, and otherwise qualified to hold a license. If an applicant claims eligibility for a bidding credit, then the information provided in its short-form application will be used to determine whether the applicant appears to be eligible for the claimed bidding credit, with the final determination of bidding credit eligibility to occur based on a winning bidder's post-auction long-form application. As discussed herein, each participant in Auction 115 must also certify that it has read the *Auction 115 Procedures Public Notice* and familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.98–4.14 GHz portion of the 3.7 GHz Service. If an Auction 115 applicant fails to make the required certifications in its FCC Form 175 by the filing deadline, then its application will be deemed unacceptable for filing and cannot be corrected after the filing deadline.

72. Applicants filing a short-form application are subject to the Commission's rules prohibiting certain communications beginning at the deadline for filing, as described herein.

73. Each applicant should note that submitting a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant with authority to bind the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submitting a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

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

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

76. To access the bidding system, each authorized bidder will be required to have their own FCC Username account that is associated with the applicant's FRN in CORES. The email address associated with an FCC Username account is also the FCC Username for that account. If the applicant does not provide in its FCC Form 175 an FCC Username for an authorized bidder that is associated with the applicant's FRN in CORES, that bidder will be unable to place or submit bids. For further details, applicants should refer to the Auction 115 FCC Form 175 Instructions.

77. No individual or entity may file more than one short-form application or

have a controlling interest in more than one short-form application. If a party submits multiple short-form applications for an auction, then only one application may form the basis for that party to become qualified to bid in that auction.

78. Similarly, and consistent with the Commission's general prohibition on joint bidding agreements, a party generally is permitted to participate in a Commission auction only through a single bidding entity. Accordingly, the filing of applications in Auction 115 by multiple entities controlled by the same individual or set of individuals generally will not be permitted. Consistent with this requirement, an entity interested in bidding in more than one license area cannot use two or more subsidiary entities to bid separately in separate markets, regardless of whether each subsidiary were to select different license areas on its short-form application. Likewise, if an entity, individual, or set of individuals hold controlling interests in multiple entities that are interested in participating in Auction 115, regardless of whether those entities have other, non-shared controlling or non-controlling interests, those entities must participate in the auction through a single bidding entity and only that bidding entity may file a short-form application. As noted by the Commission in adopting the prohibition on applications by commonly controlled entities, this rule, in conjunction with the prohibition against joint bidding agreements, protects the competitiveness of the Commission's auctions.

79. As discussed herein, after the initial short-form application filing deadline, Commission staff will review all timely submitted applications for Auction 115 to determine whether each application complies with the application requirements and whether it has provided all required information concerning the applicant's qualifications for bidding. After this review is completed, a public notice will be released announcing the status of the applications and identifying the applications that are complete and those that are incomplete because of minor defects that may be corrected. The public notice also will establish an application resubmission filing window, during which an applicant may make minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting modified applications. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment. Qualified bidders will be identified by public notice at least 10 days prior to the mock auction.

80. OEA and WTB discuss herein additional details regarding certain information required to be submitted in the short-form application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described herein, all required information is included in its short-form application. To the extent the information in the *Auction 115 Procedures Public Notice* does not address an applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the educational materials for Auction 115 (see the Education section on the Auction 115 website at *www.fcc.gov/auction/115*) and use the contact information provided in the *Auction 115 Procedures Public Notice* to consult with Commission staff to better understand the information it must submit in its short-form application.

*B. Certification of Notice of Auction 115 Requirements and Procedures*

81. For the reasons set forth in the *Auction 115 Comment Public Notice,* OEA and WTB adopt the proposal to require any applicant seeking to participate in Auction 115 to certify in its short-form application, under penalty of perjury, that it has read the *Auction 115 Procedures Public Notice* adopting procedures for Auction 115 and that it has familiarized itself with these procedures and with the requirements for obtaining a license and operating facilities in the 3.98–4.14 GHz portion of the 3.7 GHz Service.

82. This certification is designed to bolster applicants' efforts to educate themselves about the procedures for auction participation and to ensure that, prior to submitting their short-form applications, applicants understand their obligation to stay abreast of relevant information. Familiarity with the Commission's rules and procedures governing Auction 115 may also help bidders avoid the consequences to them associated with defaults, which also cause harm to other applicants and the public by reducing the efficiency of the auction process and reducing the likelihood that the license will be assigned to the bidder that values it the most. This certification, along with the other certifications required pursuant to 47 CFR 1.2105(a), will promote the submission of applications that meet the Commission's requirements, thereby leading to a more efficient application process.

83. A substantively similar certification was required for Auctions 110, 108, 112, 113, and 114. This requirement furthers a long-standing policy under which the Commission expressly places a burden upon each applicant to be thoroughly familiar with the procedures, terms, and conditions contained in the relevant Procedures Public Notice and any future public notices that may be released in the auction proceeding. While the certification OEA and WTB add refers to information regarding auction procedures and licensing that is available at the time of certification, potential auction applicants are on notice from the *Auction 115 Procedures Public Notice* that their educational efforts must continue even after their short-form applications are filed. Commission staff routinely makes available detailed educational materials, such as interactive, online tutorials and technical guides, to enhance interested parties' comprehension of the pre-bidding and bidding processes and to help applicants minimize their need to engage outside engineers, legal counsel, or other auction experts.

84. For these reasons, OEA and WTB will require each Auction 115 applicant to certify as follows in its short-form application:

that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.98–4.14 GHz portion of the 3.7 GHz Service.

85. An applicant must provide this certification under penalty of perjury, consistent with 47 CFR 1.2105(a). This certification must be provided in addition to the certifications already required under 47 CFR 1.2105. As with the other certifications required in the short-form application, an applicant's failure to make this certification in its FCC Form 175 by the January 20, 2027 short-form filing deadline will render its application unacceptable for filing, and its application will be dismissed with prejudice.

*C. License Area Selection*

86. An applicant must select all of the license areas in which it may want to bid for a block from the list of available PEAs on its FCC Form 175. If applicable, an applicant can select all 406 available PEAs at one time using AAS's ''all PEAs'' feature. An applicant must carefully review and verify its PEA

selections before the FCC Form 175 filing deadline because those selections cannot be changed after the auction application filing deadline. An applicant is not required to place bids on a block in any or all of the license areas selected, but the bidding system will not accept bids for blocks located in PEAs that the applicant did not select in its FCC Form 175.

*D. Disclosure of Agreements and Bidding Arrangements*

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

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

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

90. This prohibition applies to joint bidding arrangements involving two or more nationwide providers, as well as joint bidding arrangements involving a nationwide provider and one or more non-nationwide providers, where at least one party to the arrangement is an applicant for the auction. In the *Updating Part 1 Report and Order,* 80 FR 56764 (September 18, 2015), the Commission stated that entities that qualify as nationwide providers generally would be identified in procedures public notices released before each auction.

91. To that end, in the *Auction 115 Comment Public Notice,* OEA and WTB proposed to identify AT&T, T-Mobile, and Verizon as ''nationwide providers'' for the purpose of implementing the competitive bidding rules in Auction 115, including 47 CFR 1.2105(c), the rule prohibiting certain communications. OEA and WTB received no comments on this proposal. As explained herein, for the licenses being offered in Auction 115, the rules for the 3.98–4.14 GHz portion of the 3.7 GHz Service allow a licensee to provide flexible terrestrial wireless services. Thus, consistent with the procedures adopted for prior auctions of flexible-use licenses for advanced wireless services, OEA and WTB adopt their proposal to identify AT&T, T-Mobile, and Verizon as ''nationwide providers'' for the purpose of implementing the competitive bidding rules in Auction 115, including, as discussed further herein, 47 CFR 1.2105(c), the rule prohibiting certain communications.

92. Under certain circumstances, provided that no party is a nationwide provider, a non-nationwide provider may enter into an agreement to form a consortium or a joint venture (as applicable) that results in a single party applying to participate in an auction. Specifically, a designated entity can participate in one consortium or joint venture in an auction, and non-nationwide providers that are not designated entities may participate in an auction through only one joint venture. A non-nationwide provider may enter into only one agreement to form a consortium or joint venture (as applicable), and such consortium or joint venture shall be the exclusive bidding vehicle for its members in the auction. The general prohibition on joint bidding arrangements excludes certain agreements, including those that are solely operational in nature, as defined in 47 CFR 1.2105(a)(2)(ix)(A) through (C).

93. To implement the prohibition on joint bidding arrangements, the Commission's rules require each applicant to certify in its short-form application that it has disclosed any arrangements or understandings of any kind relating to the licenses being auctioned to which it (or any party that controls or is controlled by it) is a party. The applicant must also certify that it (or any party that controls or is controlled by it) has not entered and will not enter into any arrangement or understanding of any kind relating directly or indirectly to bidding at auction with, among others, any other applicant or a nationwide provider.

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

95. Applicants should bear in mind that a winning bidder will be required to disclose in its post-auction long-form application (FCC Form 601), the specific terms, conditions, and parties involved in any agreement relating to the licenses being auctioned into which it had entered prior to the time bidding was completed. This applies to any settlement agreement, bidding consortium, joint venture, partnership, or other agreement, arrangement, or understanding of any kind entered into relating to the competitive bidding process, including any agreements relating to the licenses being auctioned that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party.

*E. Ownership Disclosure Requirements*

96. Each applicant must comply with the applicable part 1 ownership disclosure requirements and provide information required by 47 CFR 1.2105 and 1.2112, and, when applicable, 47 CFR 1.2110. Specifically, an applicant must fully disclose information regarding the real party- or parties-in-

interest in the applicant or application and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in 47 CFR 1.2105 and 1.2112 and, where applicable, 47 CFR 1.2110. Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

97. In certain circumstances, an applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed an application to participate in a prior auction in which it disclosed ownership information. If in that previous filing, the applicant used the same FRN the applicant is using to create its FCC Form 175 for Auction 115, the applicant will have the option to pre-fill the most current ownership information contained in any such filing into certain ownership sections on the applicant's FCC Form 175, if such information is in an electronic format compatible with FCC Form 175. Applicants who want to take advantage of the pre-fill option are encouraged to submit an FCC Form 602 ownership report or update any ownership information on file with the Commission in an FCC Form 602 ownership report prior to starting a short-form application for Auction 115 to ensure that their most recent ownership information is pre-filled into their short-form application. Each applicant must carefully review any ownership information that has been pre-filled into its FCC Form 175, including any ownership attachments, to confirm that all information supplied on FCC Form 175 is complete and accurate as of the application filing deadline. Any information that needs to be corrected or updated must be changed directly in FCC Form 175.

*F. Foreign Ownership Disclosure Requirements*

98. 47 U.S.C. 310 requires the Commission to review foreign investment in radio station licenses and imposes specific restrictions on who may hold certain types of radio licenses. When completing a short-form application, an applicant must disclose information concerning its foreign ownership. In addition, if an applicant's foreign ownership exceeds the applicable limit or benchmark set forth in 47 U.S.C. 310(b), then it may seek to participate in Auction 115 only if it has filed a 47 U.S.C. 310(b) petition for declaratory ruling with the Commission prior to the short-form application filing deadline.

99. When submitting its short-form application, an applicant must certify that, as of the filing deadline, the applicant is in compliance with the foreign ownership restrictions in 47 U.S.C. 310, is in compliance with the terms and conditions of a 47 U.S.C. 310(b) declaratory ruling granted by the Commission, or has filed a petition for declaratory ruling pursuant to 47 U.S.C. 310(b)(3) or (b)(4) that is pending before the Commission. An applicant with foreign ownership that necessitates a 47 U.S.C. 310(b) declaratory ruling must submit as an attachment to its short-form application a copy of its pending petition for declaratory ruling or a citation to its previously granted declaratory ruling, whichever is applicable. In addition, if the applicant has been granted a 47 U.S.C. 310(b) declaratory ruling, it must indicate in its short-form application whether the applicant remains in compliance with the terms and conditions of that declaratory ruling. Such an applicant must also indicate in its short-form application whether the facts upon which its declaratory ruling were based have changed and, if they have, the applicant must explain any such changes and whether and how the applicant remains in compliance with its declaratory ruling. Similarly, an applicant whose petition for declaratory ruling is pending before the Commission must indicate in its short-form application whether the facts contained in its petition have changed since it was filed and, if they have, the applicant must explain any such changes and indicate whether the pending petition has been amended to reflect such changes. Additional information concerning foreign ownership disclosure requirements is provided in the Auction 115 FCC Form 175 Instructions.

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

100. In Auction 115, designated entity bidding credits will be available to applicants that demonstrate eligibility for a small business or a rural service provider bidding credit and are subsequently winning bidders in the auction. A bidding credit represents an amount by which an eligible small business or rural service provider bidder's overall payment across the licenses won may be discounted, subject to the caps discussed in the Caps on Bidding Credits section herein. These bidding credits will not be cumulative—an applicant is permitted to request either a small business bidding credit or a rural service provider bidding credit, but not both. OEA and WTB remind applicants that being deemed qualified to bid in Auction 115 does not constitute a final determination that a party claiming a designated entity bidding credit is eligible for the credit. A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility for the bidding credit sought in its FCC Form 601, as part of its post-auction long-form license application.

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

102. In addition to the information provided herein, each applicant should review carefully the Commission's decisions regarding eligibility for designated entity benefits as well as the part 1 rules. In particular, OEA and WTB remind applicants requesting bidding credits that they should take due account of the requirements of the Commission's rules and implementing orders regarding *de jure* and *de facto* control of such applicants. Applicants should be mindful that the Commission will closely examine qualifications of all applicant claims of bidding credit eligibility and strictly enforce its designated entity eligibility requirements.

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

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

1. Small Business Bidding Credit

105. For Auction 115, bidding credits will be available to eligible small businesses and consortia thereof, subject to the bidding credit caps discussed herein. Under the service rules applicable to the Upper C-band licenses to be offered in Auction 115, the two-tiers of bidding credits available are determined as follows:

- A bidder that qualifies as a ''small business''—*i.e.,* one with attributed average annual gross revenues that do not exceed $55 million for the preceding five years—is eligible to receive a 15% discount on its overall payment.
- A bidder that qualifies as a ''very small business''—*i.e.,* one with attributed average annual gross revenues that do not exceed $20 million for the preceding five years—is eligible to receive a 25% discount on its overall payment.

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

107. Each applicant seeking a small business bidding credit must disclose the gross revenues for the preceding five years for each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. The applicant must also submit an attachment that lists all parties with which the applicant has entered into any spectrum use agreements or arrangements for any license(s) that may be won by the applicant in Auction 115. In addition, to the extent that an applicant has an agreement with any disclosable interest holder for the use of more than 25% of the spectrum capacity of any license that may be won in Auction 115, the applicant must disclose the identity and the attributable gross revenues of any such disclosable interest holder. This attribution rule will be applied on a license-by-license basis. As a result, an applicant may be eligible for a bidding credit on some, but not all, of the licenses for which it is bidding in Auction 115. If an applicant is applying as a consortium of small businesses, then the disclosures described in this paragraph must be provided for each consortium member.

2. Rural Service Provider Bidding Credit

108. An eligible applicant may request a 15% discount on its overall payment using a rural service provider bidding credit, subject to the cap discussed herein. To be eligible for a rural service provider bidding credit, an applicant must: (1) be a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (2) serve predominantly rural areas. Rural areas are defined as counties with a population density of 100 or fewer persons per square mile. An applicant seeking a rural service provider bidding credit must provide the number of subscribers served as of the short-form application deadline. An applicant may count any subscriber as a single subscriber even if that subscriber receives more than one service.

109. Each applicant seeking a rural service provider bidding credit must disclose the number of its subscribers, along with the number of subscribers of its affiliates, controlling interests, and the affiliates of its controlling interests. The applicant must also submit an attachment that lists all parties with which the applicant has entered into any spectrum use agreements or arrangements for any licenses that may be won by the applicant in Auction 115. In addition, to the extent that an applicant has an agreement with any disclosable interest holder for the use of more than 25% of the spectrum capacity of any license that may be won in Auction 115, the identity and the attributable subscribers of any such disclosable interest holder must be disclosed. Like applicants seeking eligibility for small business bidding credits, eligible rural service providers may also form a consortium. If an applicant is applying as a consortium of rural service providers, then the disclosures described in this paragraph, including the certification, must be provided for each consortium member.

3. Attributable Interests

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

- the entity constitutes or appoints more than 50% of the board of directors or management committee;
- the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; and
- the entity plays an integral role in management decisions.

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

112. Affiliates of an applicant or controlling interest include an individual or entity that: (1) directly or indirectly controls or has the power to control the applicant, (2) is directly or indirectly controlled by the applicant, (3) is directly or indirectly controlled by a third party that also controls or has the power to control the applicant, or (4) has an ''identity of interest'' with the applicant. The Commission's definition of an affiliate of the applicant encompasses both controlling interests of the applicant and affiliates of controlling interests of the applicant. For more information on how to disclose information regarding controlling interests and affiliates, applicants should refer to 47 CFR 1.2110(c)(2) and (c)(5), respectively, as well as the Auction 115 FCC Form 175 Instructions.

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

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

115. *Limitation on Spectrum Use.* Under 47 CFR 1.2110(c)(2)(ii)(J), the gross revenues (or the subscribers, in the case of a rural service provider) of an applicant's disclosable interest holder are attributable to the applicant, on a license-by-license basis, if the disclosable interest holder has an agreement with the applicant to use, in any manner, more than 25% of the spectrum capacity of any license won by the applicant and acquired with a bidding credit during the five-year unjust enrichment period for the applicable license. For purposes of this requirement, a disclosable interest holder of an applicant seeking designated entity benefits is defined as any individual or entity holding a 10% or greater interest of any kind in the applicant, including but not limited to, a 10% or greater interest in any class of stock, warrants, options, or debt securities in the applicant or licensee. Any applicant seeking a bidding credit for licenses won in Auction 115 will be subject to this attribution rule and must make the requisite disclosures.

116. Certain disclosable interest holders may be excluded from this attribution rule. Specifically, an applicant claiming the rural service provider bidding credit may have a spectrum license use agreement with a disclosable interest holder, without having to attribute the disclosable interest holder's subscribers, so long as the disclosable interest holder is independently eligible for a rural service provider credit and the disclosable interest holder's spectrum use and any spectrum use agreement is otherwise permissible under the Commission's existing rules. If applicable, the applicant must attach to its FCC Form 175 any additional information as may be required to indicate any license that may be subject to this attribution rule or to demonstrate its eligibility for the exception from this attribution rule. Consistent with the Commission's limited information procedures, OEA and WTB intend to withhold from public disclosure all information contained in any such attachments until after the close of Auction 115.

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

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

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

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

*H. Provisions Regarding Former and Current Defaulters*

121. Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former

defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 115, but a former defaulter or delinquent may participate so long as it is otherwise qualified and makes an upfront payment that is 50% more than would otherwise be necessary. Accordingly, each applicant must certify under penalty of perjury on its FCC Form 175 that it, its affiliates, its controlling interests, and the affiliates of its controlling interests are not in default on any payment for a Commission construction permit or license (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Additionally, an applicant must certify under penalty of perjury whether it (along with its controlling interests) has ever been in default on any payment for a Commission construction permit or license (including down payments) or has ever been delinquent on any non-tax debt owed to any Federal agency, subject to the exclusions described herein. For purposes of making these certifications, the term ''controlling interest'' is defined in 47 CFR 1.2105(a)(4)(i).

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

123. In addition to the *Auction 115 Procedures Public Notice,* applicants are encouraged to review previous guidance on default and delinquency disclosure requirements in the context of the auction short-form application process. Parties are also encouraged to consult with Auctions Division staff if they have any questions about default and delinquency disclosure requirements.

124. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission has previously adopted rules, including a provision referred to as the ''red light rule,'' that implement its obligations under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. When adopting that rule, the Commission explicitly declared, however, that its competitive bidding rules ''are not affected'' by the red light rule. As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of its competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies.

125. OEA and WTB remind each applicant, however, that any indication in the Commission's Red Light Display System, which provides information regarding debts currently owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule ultimately may prevent the processing of long-form applications by auction winners, an auction applicant's lack of current ''red light'' status is not necessarily determinative of its eligibility to participate in an auction (or whether it may be subject to an increased upfront payment obligation). Moreover, a prospective applicant in Auction 115 should note that any long-form applications filed after the close of bidding will be reviewed for compliance with the Commission's red light rule, and such review may result in the dismissal of a winning bidder's long-form application. OEA and WTB encourage each applicant to carefully review all records and other available Federal agency databases and information sources to determine whether the applicant, or any of its affiliates, or any of its controlling interests, or any of the affiliates of its controlling interests, owes or was ever delinquent in the payment of non-tax debt owed to any Federal agency.

*I. Modifications to FCC Form 175*

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

126. Pursuant to 47 CFR 1.65 and 1.2105(b)(4), each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in Auction 115. Consistent with the requirements for prior spectrum auctions, an applicant for Auction 115 must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its FCC Form 175 no more than five business days after the applicant becomes aware of the need for the amendment. In accordance with the Commission's rules, an applicant's obligation to make modifications to a pending auction application in order to provide additional or corrected information continues beyond the five-day period, even if the report is not made within the five-day period. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

2. Modifying and FCC Form 175

127. As noted herein, a party seeking to participate in Auction 115 must file an FCC Form 175 electronically via the AAP in the AAS. During the initial filing window, an applicant will be able to make any necessary modifications to its FCC Form 175 in the AAP. An applicant that has certified and submitted its FCC Form 175 before the close of the initial filing window may continue to make modifications as often as necessary until the close of that window; however, the applicant must re-certify and re-submit its FCC Form 175 before the close of the initial filing window to confirm and effect its latest application changes. After each submission, a confirmation page will be

displayed stating the submission time and submission date.

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

129. An applicant's ability to modify its FCC Form 175 in the AAP will be limited between the closing of the initial filing window and the opening of the application resubmission filing window, and between the closing of the resubmission filing window and the release of the public notice announcing the qualified bidders for an auction. During these periods, an applicant will be able to view its submitted application, but will be permitted to modify only the applicant's address, responsible party address, and contact information (*e.g.,* name, address, telephone number) in the AAP. An applicant will not be able to modify any other pages of the FCC Form 175 in the AAP during these periods. If, during these periods, an applicant needs to make other permissible minor changes to its FCC Form 175, or changes to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then the applicant must submit a letter briefly summarizing the changes to its FCC Form 175 via email to *auction115@fcc.gov.* The email summarizing the changes must include a subject line referring to Auction 115 and the name of the applicant, for example, ''Re: Changes to Auction 115 Auction Application of XYZ Corp.'' Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant that submits its changes in this manner must subsequently modify, certify, and submit its FCC Form 175 electronically in the AAP once it is again open and available to applicants.

130. Applicants should also note that even at times when the AAP is open and available to applicants, the system will not allow an applicant to make certain other permissible changes itself (*e.g.,* correcting a misstatement of the applicant's legal classification). If an applicant needs to make a permissible minor change of this nature, then it must submit a written request by email to the Auctions Division Chief, via *auction115@fcc.gov,* requesting that the Commission manually make the change on the applicant's behalf. Once Commission staff has informed the applicant that the change has been made in the AAP, the applicant must then re-certify and re-submit its FCC Form 175 in the AAP to confirm and effect the change(s).

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

132. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, as discussed herein, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.2105(c) or the limited information procedures adopted for Auction 115. An applicant seeking to submit, outside the AAP, information that might reflect non-public information, such as an applicant's license area selection(s), upfront payment amount, or bidding eligibility, should consider including in its email a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition on certain communications pursuant to 47 CFR 1.2105(c).

133. Questions about FCC Form 175 amendments should be directed to the Auctions Division at *auction115@fcc.gov* or (202) 418–0660.

## IV. Information Procedures and Prohibited Communications

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

134. Consistent with past practice in many prior spectrum license auctions, OEA and WTB adopt the proposal to limit information available during Auction 115 to discourage unproductive and anti-competitive strategic behavior. Accordingly, OEA and WTB will not identify bidders placing particular bids until after the bidding has closed. While OEA and WTB generally make available to the public information provided in each applicant's short-form application following an initial review by Commission staff, OEA and WTB will not make public until after bidding has closed: (1) the PEAs that an applicant has selected for bidding in its short-form application, (2) the amount of any upfront payment made by or on behalf of an applicant, (3) an applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of a bidder placing a bid.

135. The limited information procedures used in past auctions have helped safeguard against potential anticompetitive behavior such as retaliatory bidding and collusion. OEA and WTB received no comments on their proposal to use limited information procedures for Auction 115, and OEA and WTB find nothing in the record to suggest they should not use them in Auction 115. OEA and WTB's limited information procedures, in combination with the prohibited communications rule, are generally designed to deter collusion and other types of undesirable strategic bidding and to ensure that auction participants bid in a straightforward manner. On the whole, OEA and WTB therefore conclude that the competitive benefits associated with limiting information disclosure support their adoption of such procedures for Auction 115.

136. OEA and WTB will therefore utilize limited information procedures (sometimes referred to as anonymous bidding) and, after the close of each bidding round, the bidding system will only publicly disclose the aggregate demand, the posted price of the last completed round, and the clock price for the next round of each PEA being offered in Auction 115. The identities of bidders demanding blocks in a PEA will not be disclosed until after bidding has closed and Auction 115 concludes. Bids placed according to a bidder's proxy instructions also will be made available, but a bidder's proxy instructions will not be disclosed either during or after the auction because they may contain price information private to the bidder.

137. Throughout the auction, OEA and WTB will provide bidders with secure access to certain non-public bidding information while bidding is ongoing. Each bidder will have access to information related to its own bidding and bid eligibility through the bidding system. Specifically, after the bids of a round have been processed, the bidding system will inform each bidder of the number of blocks it holds in processed demand in every PEA and its eligibility for the next round. After the close of bidding, bidders' PEA selections, upfront payment amounts, bidding

eligibility, bids, and other bidding-related actions will be made publicly available.

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

*B. Prohibited Communications and Compliance With Antitrust Laws*

139. The rules prohibiting certain communications set forth in 47 CFR 1.2105(c) apply to each ''applicant'' in Auction 115. 47 CFR 1.2105(c)(1) provides that, subject to specified exceptions, ''[a]fter the short-form application filing deadline, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider [of communications services] that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline[.]'' Any applicant found to have violated these communication prohibitions may be subject to sanctions.

1. Entities Subject to 47 CFR 1.2105(c)

140. An ''applicant'' for purposes of this rule includes all ''controlling interests'' in the entity submitting the short-form application, as well as all holders of interests amounting to 10% or more of the entity (including institutional investors and asset management companies), and all officers and directors of that entity. Under 47 CFR 1.2105(c), a party that submits an application becomes an ''applicant'' under the rule at the short-form filing deadline, and that status does not change based on later developments, including failure to become a qualified bidder. Thus, an auction applicant that does not correct deficiencies in its application, fails to submit a timely and sufficient upfront payment, or does not otherwise become qualified, remains an ''applicant'' for purposes of the rule and remains subject to the prohibition on certain communications until the applicable down payment deadline. In connection with each auction, the operation of 47 CFR 1.2105(c)(1) also requires the identification of each ''nationwide provider'' for purposes of the rule prohibiting certain communications, which for Auction 115, as adopted herein and consistent with past practice, are considered to be AT&T, T-Mobile, and Verizon.

2. Prohibition Applies Until Down Payment Deadline

141. The prohibition in 47 CFR 1.2105(c) on certain communications begins at an auction's short-form application filing deadline, which OEA and WTB have set to be January 20, 2027, and ends at the auction's down payment deadline after the auction closes, which will be announced in a future public notice. To be clear, communications that occur even after bidding has ended and the auction has closed, but before the down payment deadline, are still subject to 47 CFR 1.2105(c).

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

142. 47 CFR 1.2105(c) prohibits certain communications between applicants for an auction, regardless of whether the applicants seek licenses in the same geographic area or market. The rule also applies to communications by applicants with non-applicant nationwide providers of communications services and by nationwide applicants with non-applicant, non-nationwide providers. As explained herein, for purposes of the prohibited communications rule for Auction 115, OEA and WTB consider AT&T, T-Mobile, and Verizon to be ''nationwide providers.'' The rule further prohibits ''joint bidding arrangements,'' including arrangements relating to the licenses being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific licenses on which to bid, and any such arrangements relating to the post-auction market structure. The rule allows for limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission's rule prohibiting joint bidding, provided such arrangement is disclosed on the applicant's short-form application. Applicants may communicate pursuant to any pre-existing agreements, arrangements, or understandings relating to the licenses being auctioned that are solely operational or that provide for the transfer or assignment of licenses, provided that such agreements, arrangements, or understandings are disclosed on their applications and do not address or communicate bids (including amounts) or bidding strategies (including the particular licenses on which to bid), or the post-auction market structure.

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

144. Parties subject to 47 CFR 1.2105(c) should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any applicant's bids or bidding strategies, even if the officers, directors, or employees are not involved in their company's participation in the auction or if the information received is wholly unsolicited. Such information may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the bids and bidding strategies of one applicant are presumed to be conveyed to the other applicant through the shared officer, which creates an apparent violation of the rule.

145. Subject to the limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission's rule prohibiting joint bidding, 47 CFR 1.2105(c)(1) prohibits applicants from communicating with specified other parties only with respect to ''their own, or each other's, or any other applicant's bids or bidding strategies.'' The *Prohibited Communications Guidance Public Notice,* 80 FR 63215, October 19, 2015, released in advance of the Broadcast Incentive Auction (Auction 1000) reviewed the scope of the prohibition generally, as well as specific variations on the prohibition that were unique to Auction 1000. As the Commission explained therein, a communication conveying ''bids or bidding strategies (including post-auction market structure)'' must also

relate to the ''licenses being auctioned'' in order to be covered by the prohibition. Thus, the prohibition is limited in scope and does not apply to all communications between or among the specified parties. The Commission consistently has made clear that application of the rule prohibiting communications has never required total suspension of essential ongoing business. Entities subject to the prohibition may negotiate agreements during the prohibition period, provided that the communications involved do not relate to both: (1) the licenses being auctioned and (2) bids or bidding strategies or post-auction market structure.

146. Accordingly, business discussions and negotiations that are unrelated to bidding in Auction 115 and that do not convey information about the bids or bidding strategies, including the post-auction market structure, of an applicant, are not prohibited by the rule. Moreover, not all auction-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in Auction 115 will not violate the rule. In contrast, communicating, among other things, how a party will participate, including geographic areas selected, bid amounts, and/or whether or not the party is placing bids, would convey bids or bidding strategies and would be prohibited.

147. Moreover, while 47 CFR 1.2105(c) does not prohibit business discussions and negotiations among auction applicants that are unrelated to the auction, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, bids or bidding strategies. As already noted, the prohibition is limited in scope and does not apply to all communications between or among the specified parties. Nevertheless, certain discussions, even if they do not directly address the licenses offered in Auction 115 still might touch upon subject areas that relate to bids or bidding strategies including post-auction market structure, which could convey price or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

148. One commenter has requested that the Commission clarify how the rule prohibiting certain communications will apply to spectrum in the adjacent Lower C-band and find that it relates to the licenses being auctioned. This commenter does not contend, however, that communications regarding the Lower C-band necessarily would violate the prohibition. Rather, it asserts that a ''clear statement that the Lower C-band is within the scope of the spectrum being auctioned, coupled with the existing guidance distinguishing prohibited from permissible communications, will give applicants the certainty they need to comply while continuing normal operations during the quiet period.'' Other commenters contend that this request in fact only creates more uncertainty and thereby impairs the operation of the rule. OEA and WTB decline this request because consistent with past practice, OEA and WTB will not make any preemptive determination relating to the prohibition, including deciding whether potential communications involving spectrum in the adjacent Lower C-band ''relate'' to the Upper C-band licenses being auctioned. As with any communication, all of the surrounding facts and circumstances must be considered when assessing whether the rule applies in a particular circumstance. Communications between or among Auction 115 applicants (or nationwide providers) regarding Lower C-band licenses, such as discussions about potential transactions involving those licenses, that consider the 3.7 GHz Service band generally may relate to the Upper C-band licenses being auctioned and also may convey information about an applicant's bidding strategies, perhaps inadvertently. At the same time, however, it is also possible that communications regarding spectrum in the Lower C-band may not relate at all to the Upper C-band licenses being auctioned. Declaring that Lower C-band spectrum ''relates'' to the licenses ''in the auction'' might engender confusion and chill those pro-competitive communications. That said, as in any case where communications may convey information relating to the auction, applicants involved in discussions regarding the Lower C-band are advised to exercise special care.

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

150. Likewise, when completing a short-form application, each applicant should avoid any statements or disclosures that may violate 47 CFR 1.2105(c), particularly in light of the limited information procedures in effect for Auction 115. Specifically, an applicant should avoid including any information in its short-form application that might convey information regarding its license selections, such as referring to markets or other geographic areas in describing agreements, including any information in application attachments that will be publicly available that may otherwise disclose the applicant's license selections, or using applicant names or attachment file names in the application that refer to licenses being offered.

151. Applicants also should be mindful that communicating non-public application or bidding information publicly or privately to another applicant may violate 47 CFR 1.2105(c) even though that information subsequently may be made public during later periods of the application or bidding processes.

4. Communicating With Third Parties

152. 47 CFR 1.2105(c) does not prohibit an applicant from communicating bids or bidding strategies to a third party, such as a consultant or consulting firm, counsel, or lender. An applicant should take appropriate steps, however, to ensure that any third party it employs for advice pertaining to its bids or bidding strategies does not become a conduit for prohibited communications to other specified parties, as that would violate the rule. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding bids or bidding strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or auction consultants, may advise individual applicants on bids or bidding strategies, but firms should

implement firewalls and other compliance procedures that prevent such individuals from communicating the bids or bidding strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability for violating the rule.

153. As the Commission has noted in other spectrum auctions, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of becoming a conduit for a prohibited communication. OEA and WTB will take the same approach to interpreting the prohibited communications rule in Auction 115. OEA and WTB emphasize that whether a prohibited communication has taken place in a given case will depend on all the pertinent facts, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

154. OEA and WTB remind potential applicants that they may discuss the short-form application or bids for specific licenses with the counsel, consultant, or expert of their choice *before* the short-form application deadline. Furthermore, the same third-party individual could continue to give advice after the short-form deadline regarding the application, provided that no information pertaining to bids or bidding strategies, including licenses selected on the short-form application, is conveyed to that individual.

155. Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, even though communicating that it has applied to participate in the auction will not violate the rule, an applicant's statement to the press or a statement on social media that it intends to stop bidding in an auction could give rise to a finding of a 47 CFR 1.2105 violation. Similarly, an applicant's public statement of intent not to place bids during bidding in Auction 115 could also violate the rule.

5. 47 CFR 1.2105(c)

156. By electronically submitting its FCC Form 175, each applicant for Auction 115 certifies its compliance with 47 CFR 1.2105(c) of the rules. The mere filing of a certifying statement as part of an application, however, will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted.

6. Duty To Report Prohibited Communications

157. 47 CFR 1.2105(c)(4) requires that any applicant that makes or receives a communication that appears to violate 47 CFR 1.2105(c) must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

7. Procedures for Reporting Prohibited Communications

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

159. An applicant must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's auctions. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any reports required by 47 CFR 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 115 Procedures Public Notice.* For Auction 115, such reports must be filed with the Chief of the Auctions Division, Office of Economics and Analytics, by email to the Auctions Division Chief and sent to *auction115@fcc.gov.* If you have any questions about filing such a report, contact Auctions Division staff at *auction115@fcc.gov* or (202) 418–0660 for further guidance.

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

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

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

9. Antitrust Laws

162. Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of 47 CFR 1.2105(c)(4) will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits a short-form application and the prohibited communications rule applies. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other.

163. To the extent OEA and WTB become aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, they may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, then it may be subject to a forfeiture and may be prohibited from participating further in Auction 115 and in future auctions, among other sanctions.

## V. Bidding Procedures

164. OEA and WTB adopt their proposal to conduct Auction 115 using an ascending clock auction design with two phases. The first phase of the auction—the clock phase—will consist of successive clock bidding rounds in which qualified bidders indicate their demands for generic license blocks

(referred to as ''generic blocks'' throughout the *Auction 115 Procedures Public Notice*) in specific PEAs. In the second phase—the assignment phase—winning clock phase bidders will have the opportunity to bid for frequency-specific license assignments in a series of sealed-bid rounds. Several commenters support this general framework for an ascending clock auction.

165. OEA and WTB are releasing, concurrently with the *Auction 115 Procedures Public Notice,* updated versions of the Auction 115 Clock Phase Technical Guide and the Auction 115 Assignment Phase Technical Guide, respectively. The technical guides supplement the information in the *Auction 115 Procedures Public Notice* and provide the mathematical details and algorithms for the clock and assignment phases of Auction 115.

*A. Clock Phase*

1. Clock Auction Design

166. Under the bidding procedures that OEA and WTB adopt, the clock phase of Auction 115 will consist of multiple, sequential bidding rounds, with bidding being conducted simultaneously for all available spectrum blocks in all PEAs in the auction. During each round, bidders will indicate their demands for generic blocks in specific PEAs, and round results will be released after each round. In the first bidding round of Auction 115, a bidder will indicate for each product—the generic blocks in a PEA—the quantity of generic blocks it demands at the product's opening per-block clock price. During each subsequent bidding round, the bidding system will announce a per-block start-of-round price and clock price for each product, and qualified bidders will indicate, for each product for which they wish to bid, the number of blocks they request at the prices associated with the current round. Bidding rounds will be open for predetermined periods of time, announced well in advance of the start of each round. Bidders will be subject to activity and eligibility rules that govern the pace of the auction.

167. As proposed, for each product, the clock price for a generic block will increase from round to round if bidders' total demand for blocks in that product exceeds the supply of blocks available. The bidding rounds will continue until, for all products, the total number of blocks that bidders demand does not exceed the supply of available blocks. Once bidding rounds stop, the bidders with processed demand for a product at the product's final price will become winning bidders. Bidding in the clock phase will determine a uniform price for all the generic blocks in a PEA.

168. Following the clock phase, the assignment phase will offer clock phase winners the opportunity to express preferences for specific blocks of spectrum by bidding an additional amount for licenses with specific frequencies. All winning bidders, regardless of whether they bid in the assignment phase, will be assigned licenses for contiguous blocks in a PEA.

*2. Generic License Blocks*

169. The Commission determined in the *Upper C-band Report and Order* that 160 megahertz of the reconfigured Upper C-band from 3.98–4.14 GHz will be available to auction, and licensed in eight uniform 20-megahertz blocks in each PEA within the contiguous United States. In PEAs 1–41 and 43–76, the incumbent FSS operations have a Primary Transition Deadline of December 30, 2030. In PEAs 77–211, 213–263, 265–297, 299–359, and 361–411, the incumbent FSS operations have a Final Transition Deadline of June 30, 2031. Consequently, in each of these PEAs, all eight 20-megahertz blocks are the same and will be considered as generic blocks in the same category.

*3. Bidding Rounds*

170. As proposed, the initial bidding schedule will be announced in a public notice to be released at least one week before the start of bidding, and OEA will retain the discretion to adjust the bidding schedule to maintain an auction pace that reasonably balances bidders' need to study round results and adjust their bidding strategies with the need to conduct the clock auction at an efficient speed. Any adjustments to the bidding schedule could include changes in the amount of time for bidding rounds, the amount of time between rounds, and/or the number of rounds per day, and would depend upon bidding activity and other factors. Details on viewing round results, including the location and format of downloadable results files for each round, will be released concurrent with or prior to that public notice.

171. Two commenters contend that OEA and WTB should manage the pace of Auction 115 primarily through the bidding schedule (*i.e.,* the number of rounds per day), asserting that prematurely increasing the activity requirement or the clock price increment percentage could artificially pressure or disrupt bidders' bidding eligibility or valuation decisions in the price discovery process. They also propose that OEA and WTB schedule no fewer than four rounds per day for Auction 115, even on the first day.

172. OEA and WTB will use their discretion and judgment based on extensive experience to manage the pace of Auction 115 by making adjustments, as needed, to the bidding schedule, activity requirement percentage, and clock price increment percentage. Consistent with this approach, OEA and WTB decline to commit to conducting any specific number of bidding rounds per day. Holding fewer rounds per day at the beginning of an auction allows bidders adequate time to learn the bidding system, which helps protect against the inadvertent loss of bidding eligibility. As has been general practice, OEA and WTB will increase the activity requirement percentage and the clock price increment percentage only as needed to bring the auction to a timely close and prevent an excessive number of bidding rounds. During the auction, bidders are welcome to reach out to Commission staff through the bidding system regarding their views of the auction pace, and OEA and WTB will consider them, as appropriate.

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

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

4. Stopping Rule

175. OEA and WTB adopt their proposal to employ a simultaneous stopping rule for Auction 115, under which all products simultaneously remain available for bidding until the first round in which, after bid

processing, no product has excess demand, at which point the auction will close. In Auction 115, a product has no excess demand when aggregate demand for the product does not exceed eight. The only commenter to address this topic supports this proposal.

5. Activity Rule

176. For the reasons set forth in the *Auction 115 Comment Public Notice,* OEA and WTB adopt their proposal to employ an activity rule that requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. As in other Commission clock auctions, a bidder's activity in a round for purposes of the activity rule will be the sum of the bidding units associated with the bidder's processed demands as applied by the bidding system during bid processing. Bidders are required to be active on a specific percentage (the activity requirement percentage) of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in a permanent reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place bids in subsequent rounds of the auction.

177. OEA and WTB adopt their proposal to require that bidders maintain a fixed, high level of activity in each round of Auction 115 in order to maintain bidding eligibility. In order for posted prices and aggregate demand in the clock auction to reflect bidders' true demands reliably, the bidding system requires a high activity requirement percentage to incentivize bidders to start bidding early in the auction for the products that they want to acquire. Consistent with past practice, OEA and WTB will require that bidders be active on between 90% and 100% of their bidding eligibility in all clock rounds, with the specific percentage for each round to be set by OEA. As proposed, OEA and WTB will set the activity requirement percentage initially at 95%.

178. If the activity requirement is met, then the bidder's eligibility will not change for the next round. If the activity requirement is not met in a round, the bidder's eligibility will be reduced to an amount that brings the bidder into compliance with the requirement. The activity rule will be based on the activity associated with the bidders' processed demands that are determined during bid processing. That is, if a bidder submits a bid to reduce its demand of blocks for a product, but the bidding system cannot apply the request because demand for that product would fall below supply, then the blocks in that product will still count toward the bidder's processed activity.

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

180. In the *Auction 115 Comment Public Notice,* OEA and WTB sought comment on procedures for a contingent bidding limit that would allow a bidder's submitted bids to have bidding activity that is greater than the bidder's eligibility. In particular, OEA and WTB sought comment on whether including the contingent bidding limit in Auction 115 would add unnecessary complexity and the potential for misuse with little to no benefit for most Auction 115 bidders. The only commenter that addressed this objects to allowing contingent bidding in Auction 115. For the reasons discussed in the *Auction 115 Comment Public Notice,* and absent reasons supporting a contrary conclusion, OEA and WTB decline to adopt a contingent bidding limit in Auction 115.

181. For Auction 115, OEA and WTB will not provide for activity rule waivers to preserve a bidder's eligibility. This approach has been followed in every ascending clock auction since the Commission introduced the format. The clock auction relies on precisely identifying the point at which demand decreases to equal supply to determine winning bidders and final prices. Allowing waivers would create uncertainty with respect to the exact level of bidder demand, would reduce the incentives to bid sincerely, and would interfere with the basic clock price-setting and winner determination mechanism. Moreover, uncertainty about the level of demand would affect the way bidders' requests to reduce demand are processed by the bidding system, as addressed herein. Bidders will be able to submit proxy instructions which can address some of the circumstances under which a bidder inadvertently risks losing bidding eligibility.

6. Acceptable Bids

a. Minimum Opening Bids

182. As is typical for spectrum license auctions, OEA and WTB sought comment on the use of a minimum opening bid and/or reserve price, as mandated by 47 U.S.C. 309(j). OEA and WTB will establish minimum opening bids for every product in Auction 115. The bidding system will not accept bids at prices less than the minimum opening bid specified for each product. Based on OEA and WTB's experience in past auctions, setting appropriate minimum opening bids is an effective tool to prevent an excessive number of bidding rounds at very low prices.

183. OEA and WTB adopt their proposed minimum opening bid amounts for each 20-megahertz block on a PEA basis using a formula based on bandwidth, PEA population, and PEA population tiers, which is similar to their approach in many previous auctions for spectrum licenses. OEA and WTB will calculate minimum opening bid amounts for each 20-megahertz block based on $0.03 per MHz-pop for PEAs 1–50; $0.006 per MHz-pop for PEAs 51–100; and $0.003 per MHz-pop for all other PEAs. For all blocks in all PEAs, minimum opening bids will be subject to a minimum of $1,000 per 20-megahertz block. These minimum opening bid amounts are in line with the minimum opening bids that OEA and WTB have set for every recent auction of mid-band spectrum.

184. The minimum opening bids for all products offered in Auction 115 are set forth in the Attachment A file on the Auction 115 website at *www.fcc.gov/auction/115.*

185. As proposed, OEA and WTB will not establish an aggregate reserve price in Auction 115. OEA and WTB received no comments on this issue and are not aware of any circumstances that would warrant establishing an aggregate reserve price in the public interest for the auction of spectrum licenses in the 3.98–4.14 GHz portion of the Upper C-band.

b. Clock Price Increments

186. OEA and WTB adopt the procedures regarding clock price increments as described in the *Auction 115 Comment Public Notice.* Therefore, after bidding in the first round and before each subsequent round, the bidding system will announce, for each product, the start-of-round price and the clock price for the upcoming round—that is, the lowest price and the highest price at which bidders can specify the number of blocks they demand during the round. After Round 1, the bidding system can accept bids for a round at prices that are between the start-of-round price and the round's clock price, as described further in the Bid Types and Intra-Round Bids sections herein.

187. A product's start-of-round price will depend upon aggregate demand for the product in the previous round. If aggregate demand for blocks in a product in the previous round exceeded

the supply of blocks, then the start-of-round price for the upcoming round will be equal to the clock price of the previous round. If aggregate demand for a product equaled supply at a price in the previous round, then the start-of-round price for the upcoming round will be equal to the price at which demand equaled supply. If aggregate demand for a product was less than supply in the previous round, then the start-of-round price for the upcoming round would be equal to the start-of-round price of the previous round.

188. A product's clock price for a round will be set by adding a percentage increment to the start-of-round price. OEA and WTB adopt their proposal to set the initial increment percentage at 10%, and potentially adjust this increment percentage within a range of 5% to 30% inclusive as rounds continue. While OEA and WTB acknowledge one commenter's request to lower the upper bound to 20%, OEA and WTB decline to place such a restriction on their discretion to adjust the increment percentage during bidding when necessary, but note that an increase to 30% would represent a departure from past practice in clock auctions, and would be warranted only under exceptional circumstances.

189. OEA and WTB also retain the discretion to cap the increment if the total dollar amount of the increment (the difference between the clock price and the start-of-round price) exceeds a certain amount. OEA and WTB adopt their proposal to set this cap on the increment at $50 million initially. The adopted 5% to 30% increment range and cap will allow OEA and WTB to set a percentage that manages the auction pace and take into account bidders' needs to evaluate round results and their bidding strategies.

c. Bid Types

190. Under the clock auction format OEA and WTB adopt for Auction 115, a bidder will be able to make only ''simple'' bids since there is only one category of generic blocks in each PEA. A bid for a product specifies a quantity of a product at a price associated with the round. A bid for a product in Round 1 specifies the number of blocks demanded at the product's minimum opening bid. After Round 1, a bidder that is willing to maintain its previous round's processed demand for a product at the new clock price would bid for that quantity at the current clock price, indicating that it is willing to pay up to the clock price, if necessary, for the specified quantity. Such a bid to maintain demand must be at the current round's clock price. A bidder with processed demand for a product that wishes to reduce its demand for that product would place a bid that specifies a lower quantity at a price associated with the round at which it wishes to reduce its demand. A bidder that wishes to increase its demand for a product would place a bid that specifies a quantity and a price associated with the round, which indicates that the bidder is willing to pay up to the clock price, if necessary, for the specified quantity.

191. Bids to maintain demand will always be applied by the bidding system during bid processing. Bids to increase or decrease demand will be treated as requests that are not necessarily applied during bid processing.

d. Intra-Round Bids

192. OEA and WTB adopt their proposal that in this clock auction, in a round after the first round, a bidder will be permitted to make intra-round bids by indicating a price between the start-of-round price and the clock price at which its demand for blocks changes. In placing an intra-round bid for a product, a bidder would indicate a specific price and the changed quantity of blocks it demands if the price for blocks should increase beyond that price. For example, if a bidder has processed demand of three blocks at the start-of-round price of $200, but wishes to hold only two blocks if the price increases by more than $10, the bidder will indicate a bid quantity of two at a price of $210 ($200+$10). Similarly, if the bidder wishes to reduce its demand to zero if the price increases above $200, the bidder will indicate a bid quantity of zero at the start-of-round price of $200.

193. Intra-round bid amounts will be limited to multiples of $10 for prices below $10,000; to multiples of $100 for prices between $10,000 and $100,000, inclusive; and to multiples of $1,000 for prices above $100,000. Limiting intra-round bids to certain multiples may deter some types of anti-competitive bidding behavior. Using intra-round bids allows the bidding system to use relatively large clock price increments, because bidders are permitted to submit bids at prices lower than the clock prices. This may reduce the number of rounds in the auction without increasing the risk that a large clock price increment for a product will prevent the auction from accurately determining the market clearing price of the product, at which the aggregate demand for blocks equals the supply.

e. Proxy Bids

194. OEA and WTB adopt their proposal to make proxy bidding an option available to bidders in Auction 115, consistent with other recent spectrum auctions. Proxy instructions provide a means for a bidder to place a bid to reduce its demand in a future round at a price that is greater than the current round's clock price. In the first round, a bidder may submit a proxy instruction to the bidding system for any product for which it submits a bid in the first round. In a round after the first round, a bidder with processed demand for a product may submit a proxy instruction to the bidding system for that product. A proxy instruction for a product must indicate a reduction in demand for the product at a price greater than the current round's clock price. Proxy instructions to increase a bidder's demand for a product at a given price will not be permitted.

195. Under these adopted procedures, if a proxy instruction has been submitted, the bidding system will automatically submit a proxy bid to maintain the bidder's demand for the product in every subsequent round as long as the clock price for the round is less than the proxy instruction price. In the first round in which the clock price is greater than or equal to the proxy instruction price, the bidding system will submit a proxy bid on behalf of the bidder to reduce the bidder's demand for that product to the quantity specified in the proxy instruction at the price specified in the proxy instruction. For example, if a bidder has a processed demand of three blocks for a product with a start-of-round price of $900 and a clock price of $1,000, and the bidder is willing to purchase three blocks of the product for a price up to $1,800 per block but is not willing to purchase any blocks when the price per block exceeds $1,800, the bidder could submit a proxy instruction to reduce its demand for the product to zero blocks at $1,800. In that case, the bidding system would submit proxy bids to maintain the bidder's demand for three blocks of the product in each subsequent round as long as the clock price is less than $1,800. In the first round in which the clock price is greater than or equal to $1,800, the bidding system will submit a proxy bid to reduce the bidder's demand for the product to zero at the price of $1,800. Proxy bids will be processed by the bidding system in the same way as bids submitted by the bidder in the round.

196. In any round, to submit a proxy instruction for a product with a quantity that exceeds zero, the bidder must also submit a proxy instruction for that product with a quantity of zero indicating the highest price at which it is willing to buy any quantity of the product. For example, if a bidder has a processed demand of four blocks for a

product with a start-of-round price of $900 and a clock price of $1,000, and the bidder is willing to purchase four blocks of the product for a price up to $3,000 per block and two blocks of the product for a price of up to $4,000 per block, the bidder could submit a proxy instruction to reduce its demand for the product to two blocks at $3,000 and another proxy instruction to further reduce its demand to zero blocks at $4,000.

197. In the case of a product for which the bidder either submitted a bid to reduce demand to zero or a proxy instruction, when a bid to reduce demand for the product is not applied in full during bid processing, the bidding system will automatically generate a proxy instruction at the bid price and, in the following rounds, will submit proxy bids on behalf of the bidder according to that proxy instruction. For example, suppose that the start-of-round price for a product is $10,000, the clock price is $12,000, and a bidder with processed demand of two for the product submits a bid to reduce its demand to zero at price $11,500. If the bid is not applied during bid processing (*e.g.,* because there was no excess demand), in the following round the bidding system would submit a proxy bid on behalf of the bidder to reduce its demand for the product to zero at price $11,500. The purpose of this system-created proxy instruction is to preserve in the bidding system the bidder's interest in reducing its demand for the product to zero at a price of $11,500, which may help avoid having blocks of the product sold later in the auction to another bidder at a price less than the $11,500 that the initial bidder was willing to pay.

198. In any round, a bidder can remove or modify any existing proxy instructions or proxy bids for the round by resubmitting its bids (through the user interface or file upload), including the modifications, which would replace any bids and proxy instructions previously submitted. The bidding system will take the last bid submission as that bidder's bids and proxy instructions.

199. As is the case for intra-round bid amounts, proxy instruction prices will be limited to multiples of $10 for prices below $10,000; to multiples of $100 for prices between $10,000 and $100,000, inclusive; and to multiples of $1,000 for prices above $100,000. Proxy instructions will not be publicly released either during or after the auction.

f. Missing Bids

200. Under the ascending clock auction format OEA and WTB adopt, for every product for which a bidder has processed demand at the end of a round, a bidder will be required to submit a bid in the next round or have a proxy instruction in place, even if its demands at the new round's prices are unchanged. If a bidder does not submit bids in the current round for products for which it had processed demand in the previous round and does not have proxy instructions in place, the bidding system would consider those products to have missing bids.

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

7. Bid Processing

202. OEA and WTB adopt their proposal that after each bidding round, bids will be processed according to the bid processing procedures described herein to determine the processed demand of each bidder for each product and the posted price for each product. The posted price will serve as the start-of-round price for the next round.

a. No Excess Supply Rule for Bids To Reduce Demand

203. Bidding will be subject to a ''no excess supply'' rule, wherein the bidding system will not allow a bidder to reduce the quantity of blocks it demands for a product if the reduction would cause aggregate demand to fall below, or be less than, the supply of blocks in the product, which would create excess supply. Therefore, if a bidder has processed demand for a product in the previous round, and submits a bid to reduce the number of blocks if the price should increase above the price in its bid, the bidding system would treat the bid as a request to reduce demand that would be applied only if applying the bid would not result in, or further increase, excess supply.

b. Eligibility Rule for Bids To Increase Demand

204. The bidding system will not allow a bidder to increase the quantity of blocks it demands for a product if the total number of bidding units associated with all the bidder's demands would exceed the bidder's eligibility for the round. Therefore, if a bidder submits a bid to increase the quantity of blocks it demands for a product, the bidding system will treat the bid as a request to increase demand that will be applied only if it would not cause the bidder's processed activity to exceed its eligibility.

c. Partial Application of Bids

205. Under the bid processing procedures OEA and WTB adopt, a bid that requests a reduction from a previous processed demand could be applied partially—that is, reduced by fewer blocks than requested in the bid—if excess demand is insufficient to support the entire reduction. Accordingly, the bidding system will apply a bidder's request to reduce demand to the maximum extent possible consistent with the no excess supply rule. A bid to increase a bidder's demand could be applied partially if the total number of bidding units associated with the bidder's requested demand would cause the bidder's processed activity to exceed the bidder's eligibility for the round. Accordingly, the bidding system will apply a bidder's request to increase demand to the maximum extent consistent with the bidder's processed activity not exceeding its eligibility.

d. Processed Demand

206. OEA and WTB adopt the procedures described in the *Auction 115 Comment Public Notice* to determine the order in which the bidding system will process bids after a round ends. After a round ends, the bidding system will first consider and apply all bids to maintain demand at the clock price. Bids to maintain a bidder's processed demand at the clock price will always be applied. Then the bidding system will process bids to change demand in ascending order of price point, and by pseudo-random number in the case of tied price points, where the price point represents the percentage of the bidding interval for the round. For example, if the start-of-round price is $1,200 and the clock price is $1,300, a bid at $1,230 is at the 30% price point (30% of the $100 bidding interval for the round).

207. To process bids to change demand, the bidding system will consider bids at the lowest price point across all products, then look at bids at the next price point across all products, and continue in ascending order up to bids to change demand at the clock price. To determine whether a bidder's request to reduce demand for a product can be applied, the bidding system will determine whether there is excess

demand for that product at that point in the processing. To determine whether a request to increase demand can be applied, the bidding system will evaluate the activity associated with the bidder's processed demands at that point in the bid processing. If a bid for a product can be applied fully or partially at that point in the processing, the bidding system will recalculate the number of blocks that the bidder holds in processed demand, the aggregate demand for the product, and the bidder's processed activity.

208. If a bid to change demand cannot be applied in full at the price point indicated in the bid, *e.g.,* because demand would fall below supply or because the bidder's processed activity would exceed its eligibility, the unfulfilled bid, or portion thereof, would be held in a queue and reconsidered, again in price point order, if later in the processing (after other bids are processed) there should be excess demand for that product or if the bidder's processed activity is sufficiently reduced below its eligibility. This process of reconsidering unfulfilled bids held in the queue in ascending order of original price point repeats iteratively, with the reconsidered bids being applied (fully, partially, or not at all) and then products' aggregate demand and bidders' processed demand and activity being recalculated. The bid processing ends when no further bids remaining in the queue can be applied. The bidding system will not carry over unfulfilled bid requests to the next round, except for generating proxy instructions as described herein. The bidding system will advise bidders of the status of their bids when round results are released.

e. Price Determination

209. As described in the *Auction 115 Comment Public Notice,* the bidding system will determine, based on aggregate demand, the posted per-block price for each product for the round, which will serve as the start-of-round price for the next round. The start-of-round price for a block in a product will increase across rounds if there is excess demand for blocks in the product.

210. Specifically, if, at the end of a round, the aggregate demand for blocks in a product exceeds the supply of blocks, the posted price for the round will equal the clock price. If a reduction in demand was applied during the round that caused demand for the product to equal supply, the posted price will be the price at which the reduction was applied. If aggregate demand is less than or equal to supply and no bid to reduce demand was applied for the product, then the posted price will equal the start-of-round price for the round. The range of acceptable bid amounts for the next round will be set by adding the percentage increment to the posted price.

211. Under these procedures, when a bid to reduce demand cannot be fully applied, the bidder will not face a price that is higher than its bid price. Specifically, if a bid to reduce demand cannot be fully applied, it must be the case that there is no excess demand for the product at the bid price and, therefore, the posted price would not be higher than that price.

212. After each round of bid processing, each bidder will be informed of its processed demands, its processed activity, and the aggregate demand for each product. If the stopping rule has not been met, the bidding system will announce clock prices to determine the range of acceptable bids for the next round.

f. Caps on Bidding Credits

213. Eligible applicants claiming either a small business or rural service provider bidding credit will be subject to specified caps on the total bidding credit discount that they may receive. For Auction 115, OEA and WTB adopt the bidding credit caps at the amounts proposed for the reasons discussed in the *Auction 115 Comment Public Notice.* Specifically, OEA and WTB adopt a $25 million cap on the total bidding credit discount that may be awarded to an eligible small business or very small business, and a $10 million cap on the total bidding credit discount that may be awarded to an eligible rural service provider in Auction 115. Additionally, to create parity among eligible small businesses and rural service providers competing against each other in smaller markets, no winning designated entity bidder may receive more than $10 million in bidding credit discounts in total for products won in markets with a population of 500,000 or fewer.

214. The record supports adopting the small business bidding credit cap and rural service bidding credit cap for Auction 115 at the amounts proposed, and OEA and WTB find this consistent with the Commission's decisions in recent spectrum auctions. In the *Updating Part 1 Report and Order,* the Commission adopted small business and rural service provider bidding credit caps and established the parameters for implementing such bidding credit caps in a given auction based on an evaluation of the expected capital requirements presented by the specific service and the inventory of products to be auctioned. The Commission's rules provide for a small business bidding credit cap of not less than $25 million and a rural service provider bidding credit of not less than $10 million, to be determined on an auction-by-auction basis.

215. Under the parameters established in the *Updating Part 1 Report Order,* OEA and WTB find that a $25 million small business bidding credit cap for Auction 115 is appropriate because the expected capital requirements associated with the licenses in the 3.98–4.14 GHz portion of the Upper C-band are not likely to be any higher than those for bands where OEA and WTB adopted the same $25 million cap.

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

217. In the *Upper C-band Report and Order,* the Commission noted that two commenters urged the Commission to account for inflation and changing market conditions when setting bidding credit caps, and that this issue would be addressed in the *Auction 115 Procedures Public Notice.* Recent auction data demonstrate that a $25 million cap on small business bidding credits and a $10 million cap on rural service provider bidding credits allowed a substantial majority of designated entities to take advantage of the bidding credit program and be unaffected by the cap. Whatever the impact of inflation generally, OEA and WTB see no persuasive evidence that a $25 million cap on small business bidding credits or a $10 million cap on rural service provider bidding credits would impair the meaningful opportunity that the bidding credits provide for small businesses or rural service providers to participate in Auction 115.

218. Lastly, OEA and WTB find that a $10 million cap on the overall bidding credit amount that any winning small business bidder may apply to products won in small markets is appropriate based on the Commission's conclusions in the *Updating Part 1 Report and Order.* This is consistent with the approach adopted in all of the Commission's spectrum auctions beginning with Auction 1002 and strikes a measured and reasonable balance to protect against abuse of the designated entity program while also

allowing large designated entities a higher cap in large service areas.

219. OEA and WTB conclude that the adoption of these caps on the overall amount of bidding credits offered in Auction 115 serves the Commission's statutory goals by awarding meaningful opportunities to *bona fide* small businesses and eligible rural service providers, while preventing unjust enrichment and ensuring efficient and intensive use of spectrum. Notably, by adopting these caps for Auction 115, OEA and WTB will provide an important additional safeguard, as the Commission intended, to prevent ineligible entities from undercutting the Commission's rules. OEA and WTB's approach is simple and straightforward to implement and will not impose an artificial restriction on the amount eligible small businesses and rural service providers are likely to bid.

g. Winning Bids in the Clock Phase

220. Under the clock auction format for Auction 115, a bidder with processed demand for a product at the time the stopping rule is met will become the winning bidder of licenses corresponding to that number of blocks and will be assigned specific frequencies in the assignment phase. The final clock phase price for a generic block in a product will be the posted price of the final round.

*B. Assignment Phase*

221. As proposed, following the conclusion of the clock phase, OEA and WTB will conduct an assignment phase to determine frequency-specific assignments for the generic blocks won in the clock phase. The assignment phase will proceed in a series of sealed-bid bidding rounds, where clock phase winning bidders may submit bids to indicate their preferences for frequency-specific licenses corresponding to the generic blocks they won in the clock phase. A bid price for an assignment option will represent the maximum amount that the bidder is willing to pay for that assignment option, in addition to the final prices in the clock phase for the blocks included in the assignment option. As proposed, each bidder that won multiple blocks in a PEA in the clock phase will be assigned contiguous blocks in that PEA in the assignment phase, even if it does not participate in the assignment phase. A winning bidder in the clock phase that does not participate in the assignment phase will not pay any additional prices in the assignment phase.

222. After each assignment round concludes, the bidding system will process the bids and assign specific frequencies to each winning bidder in the clock phase in the PEAs included in the assignment round. The procedures OEA and WTB adopt will determine the winning assignment by maximizing the sum of bid values. For each assignment, the bidding system will determine each bidder's assignment price according to a type of second-price pricing rule, which will be less than or equal to the bid submitted for the assignment, or zero if no bid was submitted. A bidder's winning assignments and assignment prices will be disclosed to the bidder before the next assignment round begins.

1. Sequencing and Grouping of PEAs

223. As proposed, OEA and WTB will sequence assignment rounds to make it easier for bidders to incorporate frequency assignments from previously assigned areas into their bid preferences for other areas, recognizing that bidders generally will prefer contiguous blocks across adjacent PEAs. To that end, OEA and WTB will first conduct rounds for the top-20 PEAs and then conduct rounds simultaneously for PEAs in the six REAGs. Specifically, OEA and WTB adopt their proposal to begin the assignment phase with a separate assignment round for each of the top-20 PEAs, and to sequentially order these 20 assignment rounds by descending order of PEA population.

224. Once the top 20 PEAs have been assigned, OEA and WTB will conduct, for each of the six Regional Economic Area Groupings (REAG), a series of assignment rounds for the remaining PEAs within each region. As proposed, OEA and WTB will conduct rounds with simultaneous bidding for PEAs in the six REAGs in order to reduce the total amount of time required to complete the assignment phase. The sequence of the PEAs or PEA groups in each REAG will be determined by descending order of population. To help maximize contiguity across PEAs, where feasible, the bidding system will group multiple PEAs together if they: (1) are located in the same REAG; (2) are outside the top-20 PEAs; and (3) include the same bidders winning the same number of blocks. In addition, all PEAs in the group must either be uniformly subject to, or not subject to, the small market bidding credit cap. When these criteria are met, a bid price for an assignment option will indicate the maximum amount the bidder is willing to pay, in total, to be assigned that option in all PEAs in the group.

2. Acceptable Bids and Bid Processing

225. Under the bidding procedures OEA and WTB adopt, in each assignment round, in each PEA or PEA group included in the assignment round, the bidding system will provide each bidder assignment options of contiguous frequency-specific blocks that are consistent with the number of blocks that the bidder won in the included PEAs. A bidder may specify a price for each of its assignment options that represents the maximum amount that the bidder is willing to pay, in addition to the price established in the clock phase for the generic blocks, to be assigned the option in each PEA or PEA group. The price specified in a bid may be zero or a multiple of $100.

226. OEA and WTB decline two commenters' request that they implement procedures that would automatically assign, before any bidding in an assignment round, generic blocks won by a bidder in the clock phase to be contiguous with the C4 block (3960–3980 MHz) in the Lower C-band, if the winning bidder is the C4 block licensee. As reflected in the record, this approach would confer substantial economic advantages on a small subset of bidders and would disadvantage all other winning bidders in Auction 115, who would have reduced bidding options in the assignment phase. The assignment phase is designed to allow all bidders—whether or not they hold the C4 block—to express their preferences for frequency-specific assignments *through their bidding* according to factors such as assignments across PEAs of spectrum blocks won in the Auction 115 clock phase, pre-existing spectrum holdings, and other spectral or network considerations. Guaranteeing cross-band contiguity for a single class of bidders would undermine that design. For these reasons, OEA and WTB are not persuaded that the advantages of guaranteeing cross-band contiguity for this small subset of bidders outweigh the broader disadvantages and inequities it would create. For the same reasons, OEA and WTB decline to adopt one commenter's proposed ''optional second price auto assignment mechanism,'' in which the C4 Block licensee has the option of choosing this mechanism under which it would pay the second-lowest bid price for its guaranteed contiguous assignment, and the bidder who placed the second-lowest bid price would also pay the second-lowest bid price for whatever frequencies it is assigned. While this might somewhat lessen the economic advantage of an automatic assignment, notably, it does not eliminate it, and OEA and WTB agree with the assertion by another commenter that this ''second-lowest price'' proposal would

result in certain bidders being at a significant disadvantage due to asymmetric information, which could lead to confusion and sub-optimal bidding.

227. After each assignment round, the bidding system will, as proposed, use an optimization approach to determine the winning frequency assignments in each PEA or PEA group included in the assignment round. A winning frequency assignment in a PEA or PEA group will maximize the sum of bid amounts and will satisfy the contiguity requirements, ensuring that every winning bidder in the clock phase in the PEA or PEA group is assigned contiguous spectrum blocks there.

228. The additional price a bidder will pay, above the clock phase prices, for a frequency-specific assignment will be calculated according to a type of second price (Vickrey) approach. This approach, if necessary, adjusts the second prices to ensure that the winner will pay a price that would be just sufficient to result in the bidder receiving that same winning frequency assignment while ensuring that no group of bidders is willing to pay more for an alternative feasible assignment of contiguous spectrum blocks. The assignment price of a bidder will be less than or equal to the price the bidder indicated it was willing to pay for the assignment, and will be zero if the bidder did not bid or submitted a bid of zero. OEA and WTB will determine prices in this way because it simplifies bidders' bidding strategies and incentivizes them to bid their full value for the assignment, knowing that if the assignment is selected, they will pay no more than would be necessary to ensure that the outcome is competitive.

3. Information Available to Bidders During the Assignment Phase

229. After the clock phase concludes but before bidding begins in the assignment phase, the bidding system will provide to each assignment phase bidder a menu of bidding options consisting of possible configurations of frequency-specific licenses on which it can bid. These bidding options will be consistent with the bidder's clock-phase winnings but will not take into account the winnings of other bidders. The bidding system will also announce the order in which assignment rounds will take place and indicate which PEAs will be grouped together for bidding. The bidding system will provide clock phase winning bidders with this information as soon as possible and will announce a schedule of assignment phase rounds that will commence no sooner than five business days later.

230. After each assignment round, for each PEA or PEA group included in the round, the bidding system will inform each bidder of its assignment of contiguous frequency-specific blocks and its assignment prices. The bidding system will also provide each bidder with its current total commitment, which is calculated by summing the final clock phase prices across all generic blocks the bidder won in the clock phase and the bidder's assignment prices for the PEAs for which an assignment round has already been completed. During the assignment rounds this information will provide the bidder a running estimate of its total winning bid amount. A bidder that is claiming a bidding credit will also be informed about its current bidding credit discount and whether the discount has been capped.

*C. Payment Calculations*

231. When all assignment rounds have been completed, a winning bidder's payment obligation will be calculated based on the sum of final clock phase prices across all licenses that it won, the sum of all its assignment prices, any claimed bidding credits, and its upfront payment amount. If a winning bidder is not claiming a bidding credit, its payment obligation is determined by summing the final clock phase prices across all licenses that it won and its assignment prices across all PEAs or PEA groups, and subtracting the upfront payment amount.

232. If a bidder is claiming a bidding credit, a bidding credit discount is calculated for the clock phase by applying the bidder's bidding credit percentage to the posted price after the final clock round for each product and summing the discount across the quantity of blocks won. Similarly, a bidding credit discount is calculated for the assignment phase by applying the bidder's bidding credit percentage to the assignment price for each PEA or PEA group and summing the discount across PEAs and PEA groups. The bidding credit discount is capped if it exceeds the applicable caps for small businesses, rural service providers, and small markets. Finally, the payment obligation for a bidder with a bidding credit is calculated by subtracting the capped bidding credit discount and the upfront payment from the sum of the clock phase prices and assignment prices corresponding to the bidder's winnings.

*D. Calculating Individual ''Per-License'' Prices*

233. While payment obligations for winning bidders will be calculated with bidding credit caps and assignment payments applied on an aggregate basis, rather than to individual licenses, the bidding system will also calculate a per-license price for each license using an apportioning method. Such individual prices may be needed if a licensee later incurs license-specific obligations, such as unjust enrichment payments.

234. After the assignment phase, the bidding system will determine a net and gross post-auction price for each license that a bidder won by apportioning assignment prices and bidding credit discounts (only applicable for the net price) across all the bidder's licenses. To calculate the gross per-license price, the bidding system will apportion the assignment price to the licenses in proportion to the final clock phase price of the licenses that the bidder is assigned in that PEA or PEA group. To calculate the net price, the bidding system will first calculate an uncapped discount for each license and then apportion the bidder's overall final discount to licenses in proportion to the license uncapped discounts. The net price of a license equals the gross price less the apportioned discount.

*E. Auction Results*

235. The bidding system will determine winning bidders as described in the Winning Bids in the Clock Phase section herein. After release of the public notice announcing auction results, the public will be able to view and download bidding and results data through the FCC Public Reporting System.

*F. Auction Announcements*

236. Commission staff will use auction announcements to report necessary information, such as schedule changes, to bidders. All auction announcements will be available by clicking a link in the bidding system.

**VI. Post-Auction Procedures**

237. The public notice announcing the close of the bidding and auction results will be released within several days after bidding has ended in Auction 115. This public notice will also establish the deadlines for submitting down payments, final balances due, and long-form applications (FCC Form 601) for the auction.

*A. Down Payments*

238. The Commission's rules provide that, unless otherwise specified by public notice, within 10 business days after the release of the auction closing public notice for Auction 115, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of

money on deposit with the Commission to 20% of the net amount of its winning bids (less any bidding credits, if applicable).

*B. Final Balances Due*

239. The Commission's rules provide that, unless otherwise specified by public notice, each winning bidder must submit the balance of the net amount for each of its winning bids within 10 business days after the deadline for submitting down payments.

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

240. The Commission's rules provide that, within 10 business days after release of the auction closing public notice, winning bidders must electronically submit a properly completed post-auction long-form application (FCC Form 601), including the applicable filing fee, for the license(s) they won through the auction. Each Auction 115 winning bidder must submit a consolidated application filing fee with each separate long-form application. The Commission adopted a consolidated application filing fee that includes an amount to recover costs for processing both the short-form and long-form applications, due at the time of filing the long-form application. This consolidated application filing fee must be paid in addition to the winning bid amount. We remind potential bidders that those that file long-form applications after placing a winning bid will be committing to complying with the Commission's rules for the use of the public spectrum resource to serve the public interest. Becoming a licensee after paying a winning bid placed in competitive bidding in no way alters a licensee's obligations in this regard.

241. A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility for the bidding credit sought in its FCC Form 601. Further instructions on these and other filing requirements will be provided to winning bidders in the auction closing public notice for Auction 115.

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

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

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

244. Within 10 business days after the release of the auction closing public notice for Auction 115, each winning bidder must also comply with the ownership reporting requirements in 47 CFR 1.913, 1.919, and 1.2112 by submitting an ownership disclosure information report for wireless telecommunications services (FCC Form 602) with its FCC Form 601.

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

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

*E. Tribal Lands Bidding Credit*

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

248. Unlike other bidding credits for which applicants claim eligibility prior to an auction, a winning bidder applies for a Tribal lands bidding credit after the auction when it files its FCC Form 601. When initially filing its FCC Form 601, the winning bidder will be required to advise the Commission whether it intends to seek a Tribal lands bidding credit, for each license won in a particular auction, by checking the designated box(es). After stating its intent to seek a Tribal lands bidding credit, the winning bidder will have 180 days from the close of the applicable long-form application filing deadline within which to amend its application to select the specific qualifying Tribal lands to be served and provide the required Tribal government certifications. A license receiving a Tribal lands bidding credit is subject to performance criteria as set forth in 47 CFR 1.2110(f)(3)(vii). For additional information on the Tribal lands bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rulemaking proceeding regarding Tribal lands bidding credits and related public notices.

*F. Default and Disqualification*

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

250. The Commission's rules provide that, in advance of each auction, it will establish a percentage between 3% and 20% of the applicable winning bid to be assessed as an additional default payment. As the Commission has indicated, the level of this additional payment in each auction will be based on the nature of the service and the licenses being offered. In the *Auction 115 Comment Public Notice,* OEA and WTB proposed to set the additional default payment for Auction 115 at 15% of the applicable bid for winning bids. One commenter supports the proposed 15% additional default payment, reasoning that it ''is sufficient to deter defaults and protect the integrity of the auction,'' and that no special circumstances exist for Auction 115 that warrant the higher 20% default payment used in Auctions 105 and 113. OEA and WTB agree and adopt this proposal for the reasons described in the *Auction 115 Comment Public Notice.*

251. As discussed in the Calculating Individual ''Per-License'' Prices section herein, the bidding system will calculate individual per-license prices that are separate from payment obligations, which are calculated on an aggregate basis. This per-license price will be used as the amount of a bidder's winning bid for a particular license when calculating a default payment with respect to that license.

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

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

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

254. If you have elected not to access the Refund Form, the Commission is requesting that all information listed herein be supplied in writing:

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

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

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Douglas Deets at (202) 418–0903 or Theresa Meeks at (202) 418–2945.

## VII. Procedural Matters

### *A. Paperwork Reduction Act Analysis*

255. The Office of Management and Budget (OMB) has approved the information collections in the Application to Participate in an FCC Auction, FCC Form 175. The *Auction 115 Procedures Public Notice* does not contain new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. The Commission will be submitting a non-substantive change request to OMB concerning OMB 3060–0600 related to the certification requirement for Auction 115 applicants adopted herein, and the Commission will not require Auction 115 applicants to make this certification in FCC Form 175 until OMB has approved the non-substantive change request.

### *B. Congressional Review Act*

256. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Auction 115 Procedures Public Notice* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

### *C. Final Regulatory Flexibility Analysis*

257. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), OEA and WTB incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Auction 115 Comment Public Notice* released in July 2026. OEA and WTB sought written public comment on the proposals in the *Auction 115 Comment Public Notice,* including comments on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) reflects the actions taken in the *Auction 115 Procedures Public Notice* and supplements the FRFAs completed by the Commission in the *Upper C-band Report and Order,* and other Commission orders pursuant to which Auction 115 will be conducted. This FRFA conforms to the RFA, and it (or a summary thereof) will be published in the **Federal Register**.

258. *Need for, and Objectives of, the Public Notice.* The Commission is offering licenses in Auction 115 pursuant to a statutory mandate that it grant spectrum licenses in the Upper C-band through a system of competitive bidding, and to complete competitive bidding for such licenses within two years. The *Auction 115 Procedures Public Notice* implements auction procedures for those entities that seek to bid in Auction 115 to acquire flexible-use licenses in the 3.98–4.14 GHz portion of the Upper C-band. The *Auction 115 Procedures Public Notice* resolves all open issues, and addresses comments filed in response to the *Auction 115 Comment Public Notice.* The *Auction 115 Procedures Public Notice* adopts procedural rules, terms, and conditions governing Auction 115, and the post-auction application and payment processes, as well as sets the minimum opening bid amounts for the generic blocks in a PEA (*i.e.,* products) in the Upper C-band that will be offered in Auction 115.

259. To promote the efficient and fair administration of the competitive bidding process for all Auction 115 participants, including small entities, the *Auction 115 Procedures Public Notice* adopts the following procedures for Auction 115:

- A specific upfront payment amount for a generic 20-megahertz block in a PEA available in Auction 115;
- Establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment through assignment of a specific number of bidding units for each generic block;

• A requirement that any applicant seeking to participate in Auction 115 certify in its short-form application, under penalty of perjury, that it has read the public notice adopting procedures for Auction 115 and that it has familiarized itself with those procedures and the requirements for obtaining a license and operating facilities in the 3.98–4.14 GHz portion of the Upper C-band;

• Designation of AT&T, T-Mobile, and Verizon as nationwide providers for the purpose of implementing the Commission's competitive bidding rules in Auction 115;

• Use of anonymous bidding/limited information procedures, under which the Commission will not make public until after bidding has closed: (1) PEAs that an applicant selects for bidding in its short-form application (FCC Form 175); (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 115; (3) any applicant's bidding eligibility; and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid;

• Use of a clock auction format for Auction 115, under which each qualified bidder will indicate in successive clock bidding rounds its demand for generic blocks in specific geographic areas at the prices associated with the rounds;

• The ability of OEA, in conjunction with WTB, to exercise its discretion to delay, suspend, or cancel bidding in Auction 115 for any reason that affects the ability of the competitive bidding process to be conducted fairly and efficiently;

• Retention by OEA of discretion to adjust the bidding schedule in order to manage the pace of Auction 115;

• Use of a simultaneous stopping rule for Auction 115, under which all blocks in all PEAs will remain available for bidding until the bidding stops in every PEA;

• Use of information procedures which will make public after each round of Auction 115, for each product, the aggregate demand, the posted price of the last completed round, and the clock price for the next round;

• Use of an activity rule that will require bidders to be active on between 90% and 100% of their bidding eligibility in all clock rounds, with the initial activity requirement percentage set at 95%, and with OEA retaining discretion to change the activity requirement percentage during the auction;

• A specific minimum opening bid amount for a generic block of each product available in Auction 115;

• Establishment of acceptable bid amounts, including clock price increments and intra-round bids;

• Permitting each bidder to place bids that indicate its desired quantity of blocks for a product at the prices associated with the round;

• Permitting a bidder to submit a proxy instruction to request a reduction in its demand for a product at a price higher than the current round's clock price for Auction 115;

• A requirement that bidders indicate their demands in every round or submit appropriate proxy instructions, even if their demands at the new round's prices are unchanged from the previous round, and the treatment of bids to reduce demand as a request to reduce demand for the product;

• A methodology for processing bids and requests to reduce and increase demand;

• Establishment of bidding credit caps for eligible small businesses and rural service providers in Auction 115;

• Establishment of an assignment phase that will determine which frequency-specific licenses will be won by the winning bidders of generic blocks during the clock phase; and

• Establishment of an additional default payment of 15% under 47 CFR 1.2104(g)(2) of the rules in the event that a winning bidder defaults or is disqualified after the auction.

260. The procedures for the conduct of Auction 115 constitute the more specific implementation of the competitive bidding rules contemplated by parts 1 and 27 of the Commission's rules, and the underlying rulemaking orders, including the *Upper C-band Report and Order,* and relevant competitive bidding orders, and are fully consistent therewith.

261. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed addressing the impact of the procedures and policies on small entities.

262. *Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy and provide a detailed statement of any changes made to the proposed procedures as a result of those comments. The Chief Counsel did not file any comments in response to the procedures proposed in the *Auction 115 Comment Public Notice.*

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

264. OEA and WTB's actions, over time, may affect small entities that are not easily categorized at present. OEA and WTB therefore describe three broad groups of small entities that could be directly affected by their actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant in their field. While OEA and WTB do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, OEA and WTB estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

265. The procedures adopted in the *Auction 115 Procedures Public Notice* will apply to small entities in the industries identified in the chart in Table 1 by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard and in the chart in Table 2. Where available, OEA and WTB also provide additional information regarding the number of potentially affected entities in the industries identified in Tables 1 and 2.

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

| Regulated industry | NAICS code | SBA size standard | Total firms | Total small firms | Percent small firms |
|---|---|---|---|---|---|
| Wireless Telecommunications Carriers (except Satellite). | 517112 | 1,500 employees | 1,184 | 1,081 | 91.30 |
| Satellite Telecommunications | 517410 | $44 million | 332 | 195 | 58.73 |

Affected entities in the Wireless Telecommunications Carriers (except Satellite) industry include Wireless Broadband internet Access Service Providers, Wireless Carriers and Service Providers, Wireless Communications Services, and Wireless Telephony. Affected Entities in the Satellite Telecommunications industry include Fixed Satellite Very Small Aperture Terminal (VSAT) Systems and Mobile Satellite Earth Stations.

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

| 2025 Universal service monitoring report telecommunications service provider data (data as of December 2024) | SBA size standard (1,500 employees) | | |
|---|---|---|---|
| Affected entity | Total number FCC Form 499A Filers | Small firms | Percent small entities |
| Wireless Telecommunications Carriers (except Satellite) | 608 | 522 | 85.86 |
| Wireless Telephony | 336 | 262 | 77.98 |

Affected entities in the Wireless Telecommunications Carriers (except Satellite) industry include all reporting wireless carriers and service providers. Affected entities in the Wireless Telephony industry include Cellular/PCS/SMR—Specialized Mobile Radio Licensees and SMR (Dispatch).

266. *Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities.* The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

267. The Commission designed the auction application process to minimize reporting and compliance requirements for small entities and other applicants, and the *Auction 115 Procedures Public Notice* remains consistent with this approach. For example, in the first part of the Commission's two-phased auction application process, parties desiring to participate in an auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications, and have reviewed the *Auction 115 Procedures Public Notice.* A party's eligibility to participate in bidding is based on an applicant's short-form application and certifications, as well as the remittance of a timely and sufficient upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application. Thus, a small entity that fails to become a winning bidder does not need to file a long-form application or provide the additional showings and more detailed demonstrations required of a winning bidder, thereby saving small entities and other applicants the time and expense associated with unnecessary filings.

268. Applicants that wish to participate in Auction 115 are required to certify that they have read the *Auction 115 Procedures Public Notice* and the procedures adopted therein and that they are also familiar with the procedures and requirements for obtaining a license and operating facilities in the 3.98–4.14 GHz portion of the Upper C-band. The certification requirement allows applicants to educate themselves about the procedures for participation in Auction 115, as well as their obligation to stay abreast of relevant information before bidding in Auction 115 begins and throughout the entire Auction 115 process. Adoption of this requirement may help small entities and other applicants avoid, among other things, rule violations or technical errors that could prevent them from becoming a qualified bidder or obtaining a license after placing a winning bid. Moreover, as discussed herein, the Commission makes available to potential and actual participants, at no cost, a variety of information, resources, and guidance, including interactive, online tutorials and technical guides. The requirement that applicants certify that they have read the *Auction 115 Procedures Public Notice* and are familiar with the procedures and requirements for the auction will help ensure that small entity applicants are aware that these detailed educational materials, which are designed to enhance their understanding of the pre-bidding and bidding processes, are available for their use.

269. Auction 115 applicants, including small entities, will become qualified to bid in Auction 115 only if they comply with the following requirements: (1) timely submission of a short-form application that is found to be substantially complete, and (2) timely submission of a sufficient upfront payment for at least one generic block in a PEA that the applicant selected on its FCC Form 175. In accordance with the terms of 47 CFR 1.2105(b)(2), an applicant whose application is found to contain deficiencies will have a limited opportunity to bring its application into compliance with the Commission's competitive bidding rules during a resubmission window. In addition, each Auction 115 applicant must maintain the accuracy of its previously filed short-form application electronically using the AAP in the AAS.

270. In the second phase of the process, there are additional compliance requirements applicable only to winning bidders. As with other winning bidders, any small entity that is a winning bidder will be required to comply with the terms of the following rules, among others: (1) 47 CFR 1.2107(b), by submitting as a down payment within 10 business days after release of the auction closing public

notice sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction 115 to 20% of the amount of its winning bid or bids; (2) 47 CFR 1.2109(a), by submitting within 10 business days after the down payment deadline the balance of the amount due for each of its winning bids; (3) 47 CFR 1.2107(c), by electronically filing a properly completed long-form application (FCC Form 601) and required exhibits for the license(s) won through Auction 115; and (4) 47 CFR 1.2107(f), by electronically filing an ownership disclosure information report for wireless telecommunications services (FCC Form 602). Further, as required by 47 CFR 1.2105(c), reports concerning prohibited communications must be filed with the Chief of the Auctions Division, as detailed in the *Auction 115 Procedures Public Notice.*

271. At this time, OEA and WTB do not expect that the processes and procedures adopted in the *Auction 115 Procedures Public Notice* will require small entities to hire attorneys, engineers, consultants, or other professionals to participate in Auction 115 and comply with the procedures OEA and WTB adopt. Moreover, OEA and WTB do not believe that the cost of compliance will unduly burden small entities that choose to participate in the auction. OEA and WTB note that the processes and procedures are consistent with existing Commission policies and procedures used in prior auctions. Thus, some small entities may already be familiar with such procedures and have the necessary staff processes and procedures in place to facilitate compliance and minimize their compliance costs. Even for those small entities that may be new to the Commission's auction process, the various resources that will be made available, including, but not limited to, the mock auction, remote electronic bidding, and access to hotlines for both technical and auction assistance, should help facilitate participation without the need to hire professionals. These resources are in addition to the resources discussed herein that small entities and other applicants will be able to access. By providing these resources as well as the resources discussed herein, OEA and WTB expect small entities that use the available resources to experience lower costs for participation and compliance.

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

273. In the *Auction 115 Procedures Public Notice,* OEA and WTB have taken steps to minimize significant economic impact of the Commission's auction procedures on small businesses through, among other things, the many resources provided to potential auction participants. As mentioned herein, consistent with past practice in prior auctions, small entities that are potential participants will have access to detailed educational information and Commission personnel to help guide their participation in Auction 115, which should alleviate any need to hire professionals.

274. To assist small entities with the AAS and the bidding system in Auction 115, the Commission currently offers a wide variety of free educational materials, demonstrations, educational opportunities, and other information and resources. For example, small entities and other would-be participants will also be provided with various materials on the pre-bidding process in advance of the short-form application filing window, which include step-by-step instructions on how to complete FCC Form 175. In addition, small entities will have access to the web-based, interactive online tutorials produced by commission staff that will familiarize them with auction procedures, filing requirements, bidding procedures, and other matters related to an auction.

275. The Commission has also taken steps to ensure that the AAS is simple to use, and that FCC Form 175 is easy to complete. For example, if an applicant for Auction 115 previously filed an FCC Form 602 ownership disclosure information report or filed an application to participate in a prior auction in which ownership information was disclosed, and the applicant uses the same FRN used to make that filing to create its FCC Form 175 for Auction 115, the AAS will give the applicant the option to pre-fill certain ownership sections in FCC Form 175 with the most current ownership information contained in any such filing.

276. Additionally, prior to the start of bidding, eligible bidders will be given an opportunity to become familiar with auction procedures and the bidding system by participating in a mock auction. Eligible bidders will have access to a user guide for the bidding system, bidding file formats, and an online bidding procedures tutorial in advance of the mock auction. Further, OEA and WTB will conduct Auction 115 electronically over the internet using a web-based bidding system that eliminates the need for small entities and other bidders to be physically present in a specific location. These mechanisms are made available to facilitate participation in Auction 115 by all eligible bidders and may result in significant cost savings for small entities that use them. Moreover, the adoption of bidding procedures in advance of the auction, consistent with statutory directive, is designed to ensure that the auction will be administered predictably and fairly for all participants, including small businesses. These steps provide measures to prepare and support the ability of a small business to comprehend OEA and WTB's bidding rules, including their rules relating to the proposal for a 95% activity level to retain full eligibility in auction rounds.

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

278. The Commission also makes various databases and other sources of information, including the Auctions program websites and copies of Commission decisions, available to the public without charge, providing a low-cost mechanism for small entities to conduct research prior to and throughout the auction. Prior to the start of bidding, and at the close of Auction 115, OEA and WTB will post public notices on the Commission's Auctions website that articulate the procedures and deadlines for the auction. The Commission makes this information easily accessible at no charge to benefit small entities and other Auction 115 applicants, thereby lowering their administrative costs of complying with the Commission's competitive bidding rules.

279. After the initial application stage, auction participants whose applications have been deemed incomplete have the opportunity to correct certain errors. An applicant whose application is deemed incomplete will receive a letter from the Commission identifying the specific errors in their application and providing contact information for a specific Commission staff member assigned to provide assistance. Additionally, after completing the application process and identifying the applicants qualified to bid in Auction 115, the Commission will automatically register all qualified bidders and distribute registration materials by overnight delivery and email prior to the auction. Applicants are not required to take any further steps until bidding commences. These approaches will benefit small entities by minimizing their administrative and compliance costs.

280. Another step taken to minimize the economic impact on small entities participating in Auction 115 is the Commission's adoption of bidding credits for small businesses and rural service providers. In accordance with the service rules applicable to the Upper C-band licenses to be offered in Auction 115, bidding credit discounts will be available to eligible small businesses and small business consortia on the following basis: (1) a bidder with attributed average annual gross revenues that do not exceed $55 million for the preceding five years is eligible to receive a 15% discount on its overall payment; or (2) a bidder with attributed average annual gross revenues that do not exceed $20 million for the preceding five years is eligible to receive a 25% discount on its overall payment. Eligible applicants can receive only one of the available small business bidding credits—not both.

281. An eligible rural service provider may request a 15% discount on its overall payment using a rural service provider bidding credit. To be eligible for a rural service provider bidding credit, an applicant must: (1) be a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (2) serve predominantly rural areas. Rural areas are defined as counties with a population density of 100 or fewer persons per square mile. Eligible applicants can request either a small business bidding credit or a rural service provider bidding credit, but not both.

282. The total bidding credit discount that may be awarded to an eligible small business is capped at $25 million and there is a $10 million cap that may be awarded to a rural service provider. In addition, to create parity among eligible small businesses and rural service providers competing against each other in smaller markets, OEA and WTB adopt a $10 million cap on the overall amount of bidding credits that any winning designated entity bidder may apply to winning licenses in markets with a population of 500,000 or less. Based on the technical characteristics of the Upper C-band and OEA and WTB's analysis of past auction data, OEA and WTB anticipate that their caps will allow the majority of small businesses to take full advantage of the bidding credit program, thereby lowering the relative costs of participation for small businesses. While eligible entities will have the opportunity to compete at auction without being unduly constrained, the caps are reasonable enough to ensure that ineligible entities are not encouraged to undercut OEA and WTB's rules, thereby achieving their dual statutory goals of benefiting designated entities while preventing unjust enrichment. In Auction 115, bidding credit caps were adopted not only because OEA and WTB are required to do under part 1 of the Commission's rules, but also because bidding credit caps provide safeguards for both the Commission and small entities and other Auction 115 bidders. Accordingly, we find that the adopted bidding credit caps represent the most appropriate approach among the alternatives considered, including proposals that we account for inflation and changing market conditions when setting bidding credit caps.

283. A Tribal lands bidding credit will also be available to winning bidders that intend to deploy facilities and provide services to qualifying Tribal lands that have a wireline penetration rate equal or below 85%. The Tribal lands bidding credit is in addition to, and separate from, any other bidding credit that winning bidders may qualify to claim. Therefore, small entities that are eligible for the small business or rural service provider bidding credit can also claim the Tribal lands bidding credit, provided they meet the requirements of 47 CFR 1.2107 and 1.2110(f).

284. Lastly, in the *Auction 115 Procedures Public Notice,* OEA and WTB declined to commit in advance of the auction to conducting any specific number of bidding rounds per day. While we considered a proposal from commenters requiring four or more rounds per day, we determined that declining to take that approach would give the Commission the flexibility to make adjustments, as needed, to the bidding schedule, activity requirement percentage, and clock price increment percentage. Further, holding fewer rounds per day at the beginning of an auction allows bidders adequate time to learn the bidding system, which helps protect against the inadvertent loss of bidding eligibility.

285. *Report to Congress.* The Commission will send a copy of the *Auction 115 Procedures Public Notice,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Auction 115 Procedures Public Notice,* including this FRFA, to the Chief Counsel for the SBA Office of Advocacy and will publish a copy of the *Auction 115 Procedures Public Notice* and this FRFA (or summaries thereof) in the **Federal Register**.

Federal Communications Commission.

**Gary Michaels,**

*Senior Deputy Chief, Auctions Division, Office of Economics and Analytics.*

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