

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

Summary: The Advisory Committee was established by P.L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place: Tuesday, June 15, 1999, at 9:30 a.m. to 3:30 p.m. The meeting will be held at The Colonnade Hotel, Huntington Ballroom, Suite A, 120 Huntington Avenue, Boston, MA 02116.

Agenda: This meeting will include a discussion of options for medium-term delegated authority with regional bankers and brokers. Further discussions will include a panel discussion with several high-tech industries from the north-east region on how and to what extent is their usage of Ex-Im Bank programs.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) of other special accommodations, please contact, prior to June 4, 1999, Teri Stumpf, Room 1203, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565-3502 or TDD (202) 565-3377.

Further Information: For further information, contact Teri Stumpf, Room 1203, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565-3502.

Elaine Stangland,

Acting General Counsel.

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FEDERAL COMMUNICATIONS COMMISSION

[DA 99-940; Report No. AUC-99-25-A (Auction No. 25)]

Closed Broadcast Auctions Scheduled for September 28, 1999; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment.

SUMMARY: This Public Notice announces the auction of certain AM, FM, TV, LPTV, and FM and TV translator construction permits, to commence on September 28, 1998, and seeks comment on procedural issues relating to the auction.

DATES: Comments are due on or before June 1, 1999. Reply comments are due on or before June 14, 1999.

ADDRESSES: To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554. In addition, parties must submit one copy to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room in the Commission's headquarters at 445 Twelfth Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418-2700 or Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418-1600 or Bob Allen, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660.

SUPPLEMENTARY INFORMATION: This Public Notice was released on May 17, 1999, and is available in its entirety, including Attachment A, for inspection and copying during normal business hours in the FCC Public Reference Room in the Commission's headquarters at 445 Twelfth Street, S.W., Washington, D.C. 20554., and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, fax (202) 857-3805, 1231 20th Street, N.W., Washington, D.C. 20036. It is also available on the Commission's website at <http://www.fcc.gov>.

Synopsis of the Public Notice

1. By this Public Notice, the Mass Media Bureau ("MMB") and the Wireless Telecommunications Bureau ("WTB") (collectively, "Bureaus") announce the auction of certain AM, FM, TV, LPTV, and FM and TV translator construction permits to commence September 28, 1999. Specifically, all spectrum to be auctioned is the subject of pending, mutually exclusive applications for

construction permits for the referenced broadcast services, for which the Commission has not approved a settlement agreement that obviates the need for an auction. This includes mutually exclusive applications for full service FM, AM and television stations that were subject to the comparative freeze instituted after the decision of the U.S. Court of Appeals for the District of Columbia in *Bechtel v. FCC*, 10 F.3d 875, 878 (D.C. Cir. 1993). The auction will also include pending mutually exclusive applications for LPTV, FM translator and television translator, as well as certain mutually exclusive LPTV and television translator DTV displacement relief applications. Pursuant to *Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, First Report and Order* in MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, 63 FR 48615 ("Broadcast First Report and Order") and *Memorandum Opinion and Order*, FCC 99-74, 64 FR 24523 ("Broadcast Reconsideration Order"), participation in the auction will be limited to those applicants identified in the Public Notice and applicants will be eligible to bid on only those construction permits for which they filed an appropriate long-form application (FCC Forms 301, 346 or 349).

2. Attachment A to the Public Notice sets forth all mutually exclusive applicant groups ("MX groups") categorized on a service-by-service basis, accompanied by their respective minimum opening bids and upfront payments. All MX groups identified in Attachment A have been subject to competition through the opening and closing of the relevant period for filing competing applications, either through the two-step cut-off list procedures or through an application filing window. Pursuant to the *Broadcast First Report and Order*, those specific situations where both noncommercial and commercial applicants have filed mutually exclusive applications for nonreserved channels are not proceeding to auction at this time, and therefore, these application groups have not been included in Attachment A. In addition, those AM, FM translator, LPTV and television translator applications in "daisy chain" MX groups (where applications are directly mutually exclusive with certain applications in their group but not with others) are not included in this auction. A separate auction for daisy chain MX groups will be announced shortly.

3. Construction permits will be auctioned for each of the MX groups identified in Attachment A. All applications within an MX group are directly mutually exclusive with one another and a single construction permit will be issued for each of those MX groups. The applicants listed in Attachment A are categorized by service as follows: Primary Service Television (full service facilities as set forth in the Commission's television Table of Allotments); Secondary Service Television (secondary service non-Table-based facilities, specifically, television translator and LPTV); FM Radio; FM translator; and AM Radio. The naming conventions employed in Attachment A to identify each MX Group are set forth below:

Primary Service TV: PST
Secondary Service TV: SST
FM Radio: FM
FM Translator: FMT
AM Radio: AM

The total number of long form applications being disposed of in this proceeding is 968. These long form applications are grouped together in a total of 265 MX groups.

4. The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses or construction permits are subject to auction (*i.e.*, because the applications are mutually exclusive), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureaus to seek comment on the use of minimum opening bids and/or reserve prices prior to the start of each broadcast auction. This is consistent with the policy applied in earlier spectrum auctions and is pursuant to the Commission's rules. The Commission has concluded that either or both of these mechanisms may be employed for auctions and has delegated the requisite authority to the Bureaus to make determinations regarding the appropriateness of employing either or both.

5. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally

has the discretion to lower the amount later in the auction.

6. In anticipation of these auctions and in light of the Balanced Budget Act, the Bureaus propose to establish minimum opening bids. The Bureaus believe a minimum opening bid, which has been utilized in other auctions, is an effective tool in conducting an auction. A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction. The minimum opening bids will be calculated according to the factors set forth below. A listing of the proposed minimum opening bids for the MX groups can be found in Attachment A of the Public Notice.

7. For full service television construction permits, the Bureaus have based the proposed minimum opening bids upon the type of service that will be offered, market size, industry cash flow data and recent broadcast transactions. For radio construction permits, the Bureaus have based the proposed minimum opening bids upon the service and class of facility that will be offered, the population covered by the proposed facilities for which parties intend to bid and recent broadcast transactions. Comment is sought on this proposal. If commenters believe that the minimum opening bids proposed in Attachment A will result in substantial numbers of unsold construction permits, or, in particular instances, do not constitute reasonable amounts, or that they should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. Commenters should detail any alternative method they propose for valuing given spectrum, providing examples and citations for each part of their formula. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bids or reserve prices.

II. Other Auction Procedural Issues

8. The Balanced Budget Act requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions

that will govern the day-to-day conduct of an auction, the Commission directed the Bureaus, under their existing delegated authority, to seek comment on a variety of auction-specific issues prior to the start of each auction. The Bureaus seek comment on the following issues.

a. Auction Sequence, License Groupings and Auction Design

9. Because the grouping together of construction permit applications by MX groups, as described above, is appropriate for the broadcast services that are the subject of this auction, the Bureaus seek comment on the use of MX groups, as represented in Attachment A, for the awarding of construction permits. Further, because it is most administratively appropriate and allows bidders to take advantage of any synergies that exist among licenses, the Bureaus propose to award the construction permits in a single simultaneous multiple-round auction. The Bureaus seek comment on this proposal.

b. Structure of Bidding Rounds, Activity Requirements, and Criteria for Determining Reductions in Eligibility

10. The Bureaus propose a single stage auction. In order to ensure that auctions close within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver.

11. The Bureaus propose that, in each round of the auction a bidder desiring to maintain its current eligibility is required to be active on construction permits encompassing one hundred (100) percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In each round of the auction a bidder's current eligibility will therefore be equal to their activity level in the previous round. The Bureaus seek comment on these proposals.

c. Minimum Accepted Bids

12. Once there is a standing high bid on a construction permit, a bid increment will be applied to that construction permit to establish a minimum acceptable bid for the following round. The Bureaus propose to initially set the bid increment at 10% per bid per construction permit. The

Bureaus retain the discretion to change the methodology for determining the minimum bid increment if they determine that circumstances so dictate. The Bureaus seek comment on this proposal.

d. Initial Maximum Eligibility for Each Bidder

13. The Bureaus have delegated authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as efficiency of the auction process and the potential value of the spectrum. With these guidelines in mind, the Bureaus propose the schedule of upfront payments contained in Attachment A to the Public Notice. The Bureaus seek comment on this proposal.

14. The Bureaus further propose that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific construction permits, but instead will be translated into bidding units to define a bidder's initial eligibility, which cannot be increased during the auction. Thus, in calculating the upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. In this auction, most bidders shall be potentially eligible to bid in relatively few MX groups, or, in some cases, potential eligibility may be limited to one MX group. This is because bidding in any MX group is potentially open only to those applicants that have previously filed a long form application. Nonetheless, in those cases where an applicant has filed qualifying long form applications for more than one MX group, the total of upfront payments tendered will be translated into bidding units to define that bidder's initial maximum eligibility, as explained above.

15. Failure to submit an upfront payment of sufficient size to provide bidding eligibility for every MX group in which an applicant has a pending long form application, will limit the bidding eligibility of that applicant. For example, where a bidder has submitted applications for three construction permits ("A," "B" and "C") and the upfront payment requirements are: "A": \$1,000; "B": \$500; and "C": \$250, once the auction commences, eligibility to bid on construction permit "A" will require 1000 bidding units; with construction permits "B" and "C"

requiring 500 units and 250 units, respectively. If the bidder submits an upfront payment of \$1,000, it may bid on construction permit "A" or on construction permits "B" and "C" in the same round, but not on all three. In this example, the bidder would, however, be eligible to bid on construction permit "A" in the first round of the auction and on "B" and "C" in a later round, so long as the bidder does not have a standing high bid on "A." In the case of this hypothetical bidder submitting an upfront payment of \$500, it could not bid on construction permit "A," (since it would have insufficient bidding units) but would be potentially eligible to pursue construction permits "B" and "C," though not both in the same round (since it would lack sufficient bidding credits). To have unrestricted bidding eligibility in the situation posed by this example, the bidder would have to submit an upfront payment of \$1,750, or enough to acquire sufficient bidding units to bid on or hold high bids on all three construction permits concurrently. The Bureaus seek comment on this proposal.

e. Activity Rule Waivers and Reducing Eligibility

16. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

17. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility thereby meeting the minimum requirements.

18. A bidder with insufficient activity that wants to reduce its bidding eligibility, rather than use an activity rule waiver, must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder

into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

19. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open, under the simultaneous stopping rule. The Bureaus propose that each bidder be provided with five activity rule waivers that may be used in any round during the course of the auction. The Bureaus seek comment on this proposal.

f. Information Regarding Bid Withdrawal and Bid Removal

20. The Bureaus propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

21. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids submitted in a previous round using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. The Bureaus seek comment on these bid removal and bid withdrawal procedures.

22. In the *Part 1 Third Report and Order*, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that in some instances bidders may seek to withdraw bids for improper reasons, including to delay the close of the auction for strategic purposes. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent strategic delay of the close of the auction or other abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may

withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

23. Applying this reasoning, the Bureaus propose to limit each bidder in the auction to withdrawals in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureaus seek comment on this proposal.

g. Stopping Rule

24. The Bureaus propose to employ a simultaneous stopping approach. The Bureaus have discretion to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time. A simultaneous stopping rule means that all construction permits remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals are received. After the first such round, bidding closes simultaneously on all construction permits. Thus, unless circumstances dictate otherwise, bidding would remain open on all construction permits until bidding stops on every construction permit.

25. The Bureaus seek comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureaus further seek comment on whether this modified stopping rule should be used.

26. We propose that the Bureaus retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as

if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

27. The Bureaus propose to reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureaus invoke this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. The Bureaus propose to exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of construction permits where there is still a high level of bidding activity. The Bureaus seek comment on these proposals.

h. Information Relating to Auction Delay, Suspension or Cancellation

28. The Bureaus propose that, by Public Notice or by announcement during the auction, they may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. The Bureaus emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureaus seek comment on this proposal.

i. Information Pertaining to Further Auction Details

29. Future public notices will include further details regarding short form (FCC Form 175) application filing and

payment deadlines, a bidder seminar, and other pertinent information.

Federal Communications Commission.

Gerald P. Vaughan,

Deputy Bureau Chief, Wireless Telecommunications Bureau.

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BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This Public Notice advises interested persons of a meeting of the Public Safety National Coordination Committee ("NCC"), which will be held at the Federal Communications Commission in Washington, D.C. The Federal Advisory Committee Act, Public Law 92-463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the second meeting of the Public Safety National Coordination Committee.

DATES: June 18, 1999, from 10:00 a.m. to 5:00 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room, Room TW-C305, 445 Twelfth Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael Wilhelm, Wireless Telecommunications Bureau, FCC and Designated Federal Officer of the Public Safety National Coordination Committee (202-418-0680).

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: The Federal Communications Commission ("FCC") has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764-776/794-806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96-86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98-191 (1998), 63 FR 58645, November 2, 1998.