

Dated: September 16, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

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FEDERAL COMMUNICATIONS COMMISSION

[DA 97-1672]

Auction of 800 MHz Specialized Mobile Radio Service Licenses; Auction Notice and Filing Requirements for 525 Licenses in the Upper 200 Channels Scheduled for October 28, 1997

Released August 6, 1997.

1. Introduction

Licenses to Be Auctioned: 525 licenses in the upper 200 channels of

the 800 MHz Specialized Mobile Radio Service ("SMR"). The auction will consist of 3 licenses in each of 175 Economic Areas ("EAs"); frequency block A is allocated 20 channels; frequency block B is allocated 60 channels; and frequency block C is allocated 120 channels. Each frequency block encompasses the following spectrum and channel numbers:

Spectrum block	Channel Nos.	Frequencies (Base and Mobile)
A	401-420	861.0-861.5 MHz. 816.0-816.5 MHz.
B	421-480	861.5-863.0 MHz. 816.5-818.0 MHz.
C	481-600	863.0-866.0 MHz. 818.0-821.0 MHz.

A detailed listing of the EAs, with their FCC market number, market

location, license number, population, and upfront payment, as well as a service area map, are provided in Attachment A.

Note: As indicated below, not all 200 SMR channels in Spectrum Blocks A, B and C are available for auction in the Canadian and Mexican border areas. Some frequencies are subject to international assignment and coordination. For further information, see paragraphs 23-26 of the *Memorandum Opinion and Order on Reconsideration*, FCC 97-224, 62 FR 41225 (July 31, 1997) and Appendix C to the *Second Report & Order*, FCC 97-223, 62 FR 41190 (July 31, 1997).

CANADIAN BORDER AREA

Spectrum block	Available channels regions 1, 4, 5 and 6	Available channels region 2	Available channels region 3	Available channels regions 7 and 8
A	None ..	None ..	4	12
B	18	None ..	44	32
C	72	55	72	48

MEXICAN BORDER AREA

Spectrum block	Available offset channels
A	3
B	12
C	18

Auction Date: The auction will begin on October 28, 1997. The precise schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding will be conducted on each business day until bidding has stopped on all licenses.

Auction Title: This is the sixteenth spectrum auction the FCC has scheduled, and will be referred to as "Auction No. 16, 800 MHz SMR—Upper 200 Channels."

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

Pre-Auction Dates:

- An Auction Seminar will be conducted at a location and date to be announced.

- Short-Form Application (FCC Form 175)—September 29, 1997, 5:30 p.m. ET
- Upfront Payments: (Only Wire Transfer Accepted)—October 14, 1997, 6:00 p.m. ET
- Orders for Remote Bidding Software—October 15, 1997, 5:30 p.m. ET
- Mock Auction—October 23, 1997
- Telephone Contacts:**
 - FCC National Call Center—888-CALL-FCC (888-225-5322) (General Auction Information and Seminar Registration, press option #2 at the prompt)
 - FCC Technical Support Hotline—202-414-1250

List of Attachments:

- Attachment A: List of Licenses Offered
- Attachment B: Guidelines for Completion of FCC Forms 159 and 175 and Exhibits
- Attachment C: Electronic Filing of FCC Form 175
- Attachment D: Summary Listing of FCC Documents Addressing Application of the Anti-Collusion Rules

Release of Further Information: The Commission plans to release public notices with further information

regarding Auction 16 in the following order:

- Due diligence
- Software ordering information and bidders seminar registration
- Instructions for on-line monitoring, bid tracking tool, outstanding auction event issues (including round schedules and bid increment calculations)

Background: In December 1995, the Commission restructured the licensing framework that governs the 800 MHz SMR service. Site- and frequency-specific licensing was replaced with a geography-based system similar to those used in other Commercial Mobile Radio Services ("CMRS"). The geographic areas for the licenses were created based on Economic Areas developed by the Bureau of Economic Analysis of the U.S. Department of Commerce.

Service and operational requirements for the 800 MHz SMR service are contained in part 90 of the Commission's Rules, 47 CFR part 90.

Potential bidders are reminded that there are a substantial number of incumbent licensees already licensed and operating in the 800 MHz SMR service on frequencies that will be subject to the upcoming auction. Such incumbents must be protected from

harmful interference in accordance with the Commission's rules by geographic area licensees. These limitations may restrict the ability of geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license area. Potential bidders are solely responsible for investigating and evaluating the degree to which incumbents are licensed and operating in areas where potential bidders may seek EA licenses. Some information regarding the licensing of such incumbents is available in the Commission's licensing database. This information is available for inspection in the Wireless Telecommunications Bureau's Public Reference Rooms. These facilities are located at 2025 M Street, NW, Room 5608, Washington, DC and 1270 Fairfield Road, Gettysburg, PA. Paper files are available for inspection in the Public Reference Room of the Wireless Telecommunications Bureau's Gettysburg, PA offices only. Any telephone inquiries regarding licensing of incumbents should be directed to the National Call Center at (888) CALL-FCC or (888) 225-5322. The licensing database, which includes information regarding incumbent licensees in the 800 MHz upper SMR band, is available for on-line review at <http://www.fcc.gov/wtb/databases.html>. Additionally, the Land Mobile database may be queried on-line on the World Wide Web at: <http://gullfoss.fcc.gov/cgi-bin/wtb-pt-rad/ptradsrch.sh>. This software permits queries of 800 SMR data for the upper 200 channels utilizing latitude/longitude and a specified radius. However, the Commission makes no representations or guarantees regarding the accuracy of information provided by incumbent licensees and incorporated into the database.

Potential bidders should also be aware that there are pending before the Commission certain applications, waiver requests, petitions to deny, petitions for reconsideration, and applications for review that relate to specific incumbent 800 MHz SMR licenses or applications. Resolution of these pending matters could have an impact on the availability of spectrum to EA licensees in this auction. In addition, some of these matters may not have reached final resolution by the time of the auction. Potential bidders are solely responsible for investigating and evaluating the degree to which such pending matters may affect spectrum availability in areas where potential bidders may seek EA licenses. In the near future, the Commission will release

a Public Notice listing pending matters that relate to licenses or applications that affect 800 MHz upper band spectrum. The Commission will also make available for public inspection the pleadings and related filings in those matters.

Participation: Those wishing to participate in the auction must submit an FCC Form 175 short-form application. The FCC Form 175 must be completed and filed in accordance with the Commission's rules and the instructions provided. This form must be received at the Commission no later than 5:30 p.m. ET on September 29, 1997. See Attachments B and C for detailed information on how to complete and electronically file the required FCC Form 175 information.

Applicants will be required to submit an upfront payment and an FCC Remittance Advice (FCC Form 159). The upfront payment must be made in U.S. dollars by wire transfer. Payments must be received at Mellon Bank in Pittsburgh, Pennsylvania, no later than October 14, 1997 at 6:00 p.m. ET. No other form of payment will be accepted.

Prohibition of Collusion: To ensure the competitiveness of the auction process, the FCC's rules prohibit applicants for the same geographic areas from communicating with each other during the auction about bids, bidding strategies or settlements. This prohibition begins with the filing of short-form applications, and ends when winning bidders submit their initial down payment. The prohibition does not apply where applicants enter into a bidding agreement before filing their short-form applications, and disclose the existence of the agreement in the short-form application. See 47 CFR 1.2105(c). See also the Summary Listing of Documents from the Commission and the Wireless Telecommunications Bureau Addressing Application of the Anti-Collusion Rules in Attachment D to this Public Notice.

Relevant Authority: Prospective bidders should familiarize themselves thoroughly with the FCC's rules relating to the 800 MHz SMR service contained in title 47, part 90 of the Code of Federal Regulations ("CFR"), and rules relating to application and auction procedures, contained in title 47, part 1, subpart Q.

Also, prospective bidders should be familiar with the procedures, terms, and rules contained in the Commission's docket Amendment of part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144. The latest releases in this docket, the *First Report and Order*, *Eighth Report and Order*, and *Second*

Further Notice of Proposed Rule Making, FCC 95-501, 61 FR 6138 (February 16, 1996), the *Second Report and Order*, FCC 97-223, 62 FR 41190 (July 31, 1997) and *Memorandum Opinion and Order on Reconsideration*, FCC 97-224, 62 FR 41225 (July 31, 1997) are posted on the Commission's World Wide Web site, <http://www.fcc.gov>.

The terms contained in the FCC's rules, documents in the 800 MHz SMR proceeding and this Public Notice are not negotiable. Prospective bidders should review these auction documents thoroughly prior to the auction to make certain that they understand all of the provisions and are willing to be bound by all of the terms before participating in the auction.

Potential bidders should be aware that petitions for reconsideration of the FCC's actions in the *Second Report and Order* and *Memorandum Opinion and Order on Reconsideration* may be filed and that the terms adopted therein are therefore subject to change upon reconsideration or appeal.

The Commission may amend or supplement the information contained in this Public Notice at any time. The FCC will issue public notices to convey new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all FCC rules and with all public notices pertaining to this auction. Copies of FCC documents, including public notices, may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc., at 202-857-3800. Additionally, many documents can be retrieved from the FCC Internet node via anonymous <ftp://ftp.fcc.gov> or the FCC World Wide Web site at <http://www.fcc.gov>. Bidders should also note that a separate Auction's web page is available on the Commission's web site at <http://www.fcc.gov/auctions.html>.

Minimum Bids: At present, there is no minimum opening bid on any of the licenses in this auction. Also, there is no minimum bid increment for a license until a license has received an initial bid. Recently adopted legislation, however, may require minimum bids or reserve prices in this auction. If minimum bids or reserve prices are established, notification will be provided prior to the start of the auction.

Bidder Alerts: All applicants must certify under penalty of perjury on their FCC Form 175 applications that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any Commission licenses. Prospective bidders are

reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

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

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use the auction of the upper 200 channels in the 800 MHz SMR service to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following: (1) The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial. (2) The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts. (3) The amount of the minimum investment is less than \$25,000. (4) The sales representative makes verbal representations that: (a) The IRS, FTC, 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. (5) In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the Federal Trade Commission (FTC) at 202-326-2222 and from the Securities and Exchange Commission (SEC) at 202-942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at 800-876-7060. Consumers who have concerns about specific 800 MHz SMR investment proposals may

also call the FCC National Call Center at 888-CALL-FCC (888-225-5322).

2. Bidder Eligibility and Small Business Provisions

A. General Eligibility Criteria

Any entity, other than those precluded by foreign ownership restrictions set forth in § 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, is eligible to hold an 800 MHz SMR license. Prospective bidders should note that the Commission's rules limit the total CMRS spectrum (*i.e.*, broadband PCS, cellular and SMR services) in which a party may have an attributable interest in any geographic area at any given time to 45 MHz. See 47 CFR 20.3-20.9. SMR licensees will be permitted to partition their service areas into smaller geographic service areas and to disaggregate their spectrum into smaller blocks. See 47 CFR 90.911.

B. Special Financial Provisions for Qualifying Small Businesses

Qualifying small business applicants are eligible for bidding credits. See 47 CFR 90.910. This auction does not offer installment payments for small business applicants.

(1) Definitions of Small Businesses

The Commission defined the small business definitions for the 800 MHz SMR as (1) a "small business," which is defined as an entity with average gross revenues that do not exceed \$15 million for the preceding three years or (2) a "very small business," which is defined as an entity with average gross revenues that do not exceed \$3 million for the preceding three years.

Gross revenues include all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.*, cost of goods sold), as evidenced by audited financial statements for the relevant number of most recently completed calendar years, or, if audited financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form application (FCC Form 175). If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate. When an applicant does not otherwise use audited financial statements, its gross revenues may be certified by its

chief financial officer or its equivalent. See 47 CFR 90.912-13.

In determining whether an entity qualifies as a small business at either threshold, gross revenues of all "controlling" principals will be attributed to the prospective small business applicant, as well as the gross revenues of affiliates of the applicant. However, personal net worth is not included in the determination of eligibility for bidding as a small business. The term "control" includes both *de jure* and *de facto* control of the applicant. Typically, *de jure* control is evidenced by ownership of 50.1 percent of an entity's voting stock. *De facto* control is determined on a case-by-case basis. An entity must demonstrate at least the following indicia of control to establish that it retains *de facto* control of the applicant: (1) The entity constitutes or appoints more than 50 percent of the board of directors or partnership management committee; (2) the entity has authority to appoint, promote, demote and fire senior executives that control the day-to-day activities of the licensees; and (3) the entity plays an integral role in all major management decisions. The definition of "affiliate" is set forth at § 90.912(d) of the Commission's Rules.

(2) Bidding Credits

The size of a bidding credit depends on the annual gross revenues of the bidder and its affiliates, as averaged over the preceding three years: One, a bidder with average gross annual revenues not exceeding \$15 million (a "small business") receives a 25-percent discount on its winning bids for 800 MHz SMR licenses. Two, a bidder with average gross annual revenues not exceeding \$3 million (a "very small business") receives a 35-percent discount on its winning bids for 800 MHz SMR licenses. These bidding credits are not cumulative.

(3) Application Showing

Applicants should note that as part of their FCC Form 175 filing they will be required to file supporting documentation to establish that they satisfy the eligibility requirements to bid as a small business or very small business in this auction, and that they are subject to audits to confirm their eligibility.

(4) Unjust Enrichment

Winning bidders in the auction for licenses in the upper 200 channels of the 800 MHz SMR service should note that unjust enrichment provisions apply to winning bidders who use bidding credits and subsequently assign or

transfer control of their licenses to an entity that does not qualify for the special financial provisions. See 47 CFR § 90.910(b). Likewise, unjust enrichment provisions apply to any licensee that received a bidding credit and subsequently partitions a portion of its license or disaggregates a portion of its spectrum to an entity that would not have been qualified for such a bidding credit.

3. Pre-Auction Procedures

A. Short-Form Application (FCC Form 175)—Due September 29, 1997

In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be received at the Commission by 5:30 p.m. ET on September 29, 1997. Late applications will not be accepted.

There is no application fee required when filing a FCC Form 175. However, to be eligible to bid, an applicant will have to submit an upfront payment. See part 3.C below.

(1) Filing Options

Auction applicants are strongly encouraged to file their applications electronically in order to take full advantage of the greater efficiencies and convenience of electronic filing, bidding and access to bidding data. For example, electronic filing enables the applicant to: (a) receive interactive feedback while completing the application, and (b) receive immediate acknowledgement that the FCC Form 175 has been submitted for filing. In addition, only those applicants who file electronically will have the option of bidding electronically. However, manual filing (via hard copy) is also permitted. Please note that manual filers will not be permitted to bid electronically and *must bid telephonically*, unless the FCC Form 175 is amended electronically prior to the resubmission date for incomplete or deficient applicants. Applicants who file electronically may make amendments to their applications up until the filing deadline. The following is a brief description of each filing method.

(a) *Electronic Filing.* Applicants wishing to file electronically may generally do so on a 24-hour basis beginning September 2, 1997. All the information required to file the FCC Form 175 electronically (i.e., software and help files) will be available over both the Internet and the FCC's Bulletin Board System ("BBS"). Information about downloading, installing, and running the FCC Form 175 application software is included in Attachment C to this Public Notice.

(b) *Manual Filing.* Auction applicants will be permitted to file their FCC Form 175 applications in hard copy. Where any manually filed FCC Form 175 and 175-S exceeds five pages in length, the FCC additionally requires that all attachments be submitted on a 3.5-inch diskette, or the entire application be filed in a microfiche version. Manual filers must use a 1997 version of FCC Form 175 and the October 1995 edition of the 175-S (if applicable). Earlier versions of this form will not be accepted for filing. Copies of FCC Forms 175 and 175-S can be obtained by calling 202-418-FORM.

Manual applications may be submitted by hand delivery (including private "overnight" courier), or by U.S. mail (certified mail with return receipt recommended). They must be addressed to: FCC Form 175 Filing, Auction No. 16, Federal Communications Commission, Auctions Division, 1270 Fairfield Road, Gettysburg, PA 17325-7245.

Note: Manual applications delivered to any other locations will not be accepted.

(2) Completion of the FCC Form 175

Applicants should carefully review 47 CFR 1.2105 and 90.906, and must complete all items on the FCC Form 175 (and 175-S, if applicable). Instructions for completing the FCC Form 175 are in Attachment B of this Public Notice.

Failure to sign a manually filed FCC Form 175 or failure to submit the required ownership information (for both electronic and manual filers) will result in dismissal of the application and loss of the ability to participate in the auction. Only original signatures will be accepted for manually filed applications.

(3) Electronic Review of FCC Form 175

The FCC Form 175 review software may be used to review and print applicants' FCC Form 175 applications. In other words, applicants who file electronically may review their own completed FCC Form 175s. Applicants also have access to view other applicants' completed FCC Form 175s, after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. There is a fee of \$2.30 per minute for accessing this system. See Attachment C for details.

B. Application Processing and Minor Corrections

After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely applications to determine which are acceptable for filing, and subsequently will issue a

public notice identifying: (1) Those applications accepted for filing (including FCC account numbers and the licenses for which they applied); (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

As described more fully in our rules, after the September 29, 1997 short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change the certifying official or change control of the applicant). See 47 CFR 1.2105.

C. Upfront Payments—Due October 14, 1997

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice (FCC Form 159). All upfront payments must be received by wire transfer at Mellon Bank in Pittsburgh, Pennsylvania, by 6:00 p.m. E.T. on October 14, 1997.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer. No other form of payment will be accepted.
- Upfront payments for Auction 16 go to a different lockbox number from the one used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the October 14, 1997 deadline will result in dismissal of the application and disqualification from participation in the auction.

(1) Wire Transfers

For this auction, the FCC requires applicants to make their upfront payments by wire transfer, which experience has shown provides the greatest reliability and efficiency. Wire transfer payments must be received by 6:00 p.m. ET on October 14, 1997. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC—9116878
OBI Field: (Skip one space between each information item)

"AUCTIONPAY"

FCC ACCOUNT NO. (same as FCC Form 159, Block 1)

PAYMENT TYPE CODE (enter "AW8U")

FCC CODE (same as FCC Form 159, Block 17A: "16")

PAYOR NAME (same as FCC Form 159, Block 3)

LOCKBOX NO. 358400

Note: The BNF and Lockbox No. are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 to Mellon Bank at 412-236-5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer—Auction Payment for Auction Event #16".

(2) FCC Form 159

Each upfront payment must be accompanied by a completed FCC Remittance Advice (FCC Form 159). Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments.

(3) Amount of Upfront Payment

We have applied a uniform discount factor to the upfront payments associated with each license across the board, discounting the \$0.02 per bidding unit to take into account the large amount of incumbency that exists in the upper 800 MHz SMR channels. This incumbency factor has been applied equally across all channel blocks and geographic areas and has not been adjusted for different levels of incumbencies in each individual block or area. The upfront payment amounts listed in Attachment A reflect these calculations.

The amount of the upfront payment required to bid on a particular license in Auction No. 16 is listed in Attachment A to this Public Notice. Upfront payments will be translated into bidding units to define the bidder's maximum bidding eligibility for the licenses for which it has applied.

Thus, an applicant does not have to make an upfront payment to cover all licenses for which it has applied. Rather, the total upfront payment defines the maximum amount of bidding units the applicant will be permitted to bid on (including standing high bids) in any single round of bidding. At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on its FCC Form 175, or else the applicant will

not be eligible to participate in the auction.

In calculating the upfront payment amount, an applicant should determine the maximum number of bidding units it may wish to be active on in any single round, and submit an upfront payment covering that number of bidding units. (See part 4.A(2) for a discussion of activity and bidding units.)

Note: An applicant may, on its FCC Form 175, apply for every license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment. As explained in parts 4.A(2) and 4.A(4) below, bidders will be required to remain active in each round of the auction on a specified percentage of bidding units reflected in their upfront payment in order to retain their current eligibility.

(4) Refunds

The FCC plans to use wire transfers for all Auction 16 refunds. To avoid delays in processing refunds, applicants should include wire transfer instructions with any refund request they file; they may also provide this information in advance by faxing it to the FCC Billings and Collections Branch, ATTN: Regina Dorsey or Linwood Jenkins, at 202-418-2843. (Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number before it can disburse refunds.) Eligibility for refunds is discussed later in part 5.D.

D. Auction Registration

No later than five business days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and who have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

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

Applicants who do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant who has not received both mailings within three business days after the release of the qualified bidders public notice should contact the FCC

National Call Center at 888-CALL-FCC (888-225-5322, press option #2 at the prompt). Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

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

E. Remote Electronic Bidding Software

Qualified bidders who file or amend the FCC Form 175 electronically are allowed to bid electronically, but must purchase remote electronic bidding software for \$175.00, including shipping and handling, by October 15, 1997. (Auction software is tailored to a specific auction, so software from prior auctions will not work for Auction 16.) Bidders who order remote bidding software by the ordering deadline will receive it with the registration mailings. A software order form will appear in a subsequent public notice.

F. Mock Auction

All applicants whose FCC Form 175s have been accepted for filing will be eligible to participate in a mock auction beginning October 23, 1997. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Due to different bidding procedures in this auction from previous Commission auctions, participation by all bidders is strongly recommended. Details will be announced by public notice.

4. Auction Event

The first round of the auction will begin at 10:00 am ET on October 28, 1997.

A. Auction Structure**(1) Simultaneous Multiple Round Auction**

The 525 EA licenses in the upper 200 channels of the 800 MHz SMR service will be awarded through a single, simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction.

(2) Maximum Eligibility and Activity Rules

As explained in part 3.B(3) above, the amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a percentage of their maximum eligibility during each round of the auction.

Details of the specific percentages for each stage are set forth under *Auction Stages* in part 4.A(4) below. A bidder that does not satisfy the activity rule will either lose bidding eligibility or use an activity rule waiver, as explained by *Activity Rule Waivers and Reducing Eligibility* in part 4.A(3) below.

A bidder is considered active on a license in the current round if it either is the high bidder at the end of the previous bidding period and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (see *Minimum Acceptable Bids* in part 4.B(2) below). A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility and increases as the auction progresses, as set forth under *Auction Stages* in parts 4.A(4) and 4.A(5) below.

(3) Activity Rule Waivers and Reducing Eligibility

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

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.

A bidder with insufficient activity who 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 in *Auction Stages*, part 4.A(4) below. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a 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.

(4) Auction Stages

The auction is composed of three stages, which are each defined by an increasing activity rule. Below are the proposed activity levels for each stage of the auction. The FCC reserves the discretion to alter the activity percentages before and during the auction.

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

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

Stage Three: In each round of the third stage, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty-fortyninths ($\frac{50}{49}$).

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

(5) Stage Transitions

The auction will start in Stage One. Under our general guidelines it will advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when in each of three consecutive rounds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). However, the FCC retains the discretion to accelerate the auction by announcement. This determination will be based on a variety of measures of bidder activity including, but not limited to, the auction activity level, the percentages of licenses (measured in terms of bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

(6) Auction Stopping Rules

Barring extraordinary circumstances, bidding will remain open on all licenses until bidding stops on every license. Thus, the auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid.

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

Further, in its discretion, the FCC reserves the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the FCC invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The FCC intends to exercise

this option only in extreme circumstances, such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the FCC is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity.

(7) Auction Delay, Suspension or Cancellation

By public notice or by announcement during the auction, the FCC 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 FCC, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the FCC to delay or suspend the auction.

B. Bidding Procedures

(1) Round Structure

The initial bidding schedule will be announced by public notice at least one week before the start of the auction, and will be included in the registration mailings. The round structure for each bidding round contains a single bidding period followed by the release of the round results. Participants should note that the round structure for this auction is the same structure as was used in the recent Wireless Communications Service auction. This format is different from the round structure used in previous Commission auctions.

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

(2) Minimum Acceptable Bids

There will be no minimum opening bid and no minimum bid increment for a license until the license has received an initial bid. For further discussion, see pages five and six above. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. The Commission will release the specific methodology for calculating this increment before the start of the auction.

(3) High Bids

Each bid will be date-and time-stamped when it is entered into the computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which bids are received by the Commission, starting with the earliest bid.

(4) Bidding

During a bidding period, a bidder may submit bids for as many licenses as it is eligible, as well as withdraw high bids from previous bidding periods, remove bids placed in the same bidding period, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding period, and will not have a separate period to withdraw bids. If a bidder enters multiple bids for a license in the same round, the system takes the last bid entered as that bidder's bid for the round. A bidder's maximum eligibility in the first round of the auction is determined by: (a) The licenses applied for on FCC Form 175 and (b) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. A bidder also has the option to further tailor its bid submission screens to call up specified groups of licenses.

The bidding software requires each bidder to login to the FCC Auction System during the bidding period using the FCC Account Number, Bidder Identification Number, and confidential security codes provided in the registration materials. Bidders are encouraged to download and print bid confirmations after they submit their bids.

(5) Bid Withdrawal and Bid Removal

(a) *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. Note that removing a bid will affect a bidder's eligibility for the round in which it is removed.

Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payments specified in 47 CFR 90.905. The procedure for withdrawing a bid and receiving a withdrawal confirmation is essentially the same as the bidding procedure described in *Bidding*, part 4.B(4) above. To prevent strategic delays to the close of the auction, the FCC retains the discretion to limit the number of times that a bidder may re-bid on a license from which it has withdrawn a high bid. Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

If a high bid is withdrawn, the license will be offered in the next round at the second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid, without any bid increment. The FCC will serve as a "place holder" on the license until a new acceptable bid is submitted on that license.

(b) *Calculation.* Generally, a bidder who withdraws a standing high bid during the course of an auction will be subject to a payment equal to the lower of (1) the difference between the net withdrawn bid and the subsequent net winning bid, or (2) the difference between the gross withdrawn bid and the subsequent gross winning bid for that license. See 47 CFR 90.905. No withdrawal payment will be assessed if the subsequent winning bid exceeds the withdrawn bid.

(6) Round Results

The bids placed during a bidding period are not published until the conclusion of that bidding period. After a bidding period closes, the FCC will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access.

Reports reflecting bidders' identities and bidder identification numbers for Auction 16 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against whom they are bidding.

(7) Auction Announcements

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

(8) Other Matters

As noted in part 3.B above, after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Filers should make these changes on-line, and submit a letter to Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW., Room 5322, Washington, DC, 20554 (and mail a separate copy to Alice Elder, Auctions Division), briefly summarizing the changes. Questions about other changes should be directed to the FCC Auctions Division at 202-418-0660.

5. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

After bidding has ended, the FCC will issue a public notice declaring the auction closed ("auction closing notice"), identifying the winning bids and bidders for each license, and listing withdrawn bid payments due.

Within ten business days after release of the public notice announcing the close of the auction, each winning bidder must submit sufficient funds to bring the total amount of money on deposit with the government (upfront payment less any withdrawal payments) to 20 percent of its high bids, unless it is an eligible small or very small business who elected to bid using bidding credits, then it must submit sufficient funds to bring the total amount of money on deposit with the government (upfront payment less any withdrawal payments) to 20 percent of its net winning bids (actual bids less any applicable bidding credits). See 47 CFR 90.907. In addition, by the same deadline all bidders must pay any withdrawn bid amounts due under § 90.905 of the Commission's Rules, as discussed in part 4.B(5) above. Upfront payments are applied first to satisfy any outstanding bid withdrawal payments before being applied toward down payments. 47 CFR 1.2104(g)(2).

B. Long-Form Application

Within ten business days after release of the auction closing notice, winning bidders must submit a properly completed long-form application and required exhibits for each 800 MHz SMR license won through the auction. Winning small business or very small business bidders must include an exhibit demonstrating their eligibility for the small business provisions. See 47 CFR 1.2107 (c)-(d). Further filing instructions will be provided to auction winners at the close of the auction.

C. Application Processing and Grant; Final Payments

Once a high bidder has submitted its down payment and filed an acceptable long-form application, the FCC will release a public notice announcing acceptance of the long-form application. Unless otherwise announced, parties will have thirty days following the public notice to file petitions to deny. Oppositions to petitions to deny are due within ten days after the filing of the petition to deny. Replies to oppositions may be filed within five days after the time for filing the oppositions has expired. See 47 CFR 1.45, 1.2105(b) and (c). If the Commission dismisses or denies all petitions to deny, the Commission will announce by public notice that it is prepared to award a license, and the winning bidder will then have ten business days to submit the balance of its winning bid. If this payment is made, the license will be granted.

Winning bidders will receive further instructions and detailed payment information after the auction closes.

D. Refund of Remaining Upfront Payment Balance

All applicants who submitted upfront payments but were not winning bidders for any 800 MHz SMR license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

Bidders who drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. However, bidders who reduce their eligibility and remain in the auction are not eligible for partial refunds of upfront payments until the close of the auction. Qualified bidders who have exhausted all their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit

a written refund request, along with a Taxpayer Identification Number ("TIN") and a copy of their bidding eligibility screen print, to: Federal Communications Commission, Billings and Collections Branch, Attn: Regina Dorsey or Linwood Jenkins, 1919 M Street, NW., Room 452, Washington, DC 20554.

Bidders can also fax their request to the Billings and Collections Branch at (202) 418-2843. Once the request has been approved, a refund will be sent to the address provided on the FCC Form 159.

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

E. Default and Disqualification

Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in § 90.905 of the Commission's Rules. In the event that the amount of those payments cannot be determined (*i.e.*, until the license has been reauctioned), the FCC can require a "deposit" of at least three (3) percent of the defaulted bid amount. See *In Re C. H. PCS, Inc.*, BTA No. B347 Frequency Block C, Order, DA 96-1825 (released November 4, 1996). See also *Wireless Telecommunications Bureau Will Strictly Enforce Default Payment Rules*, Public Notice, DA 96-41 (April 4, 1996). Under certain circumstances the FCC can also reauction the license to existing or new applicants, or offer it to the other highest bidders (in descending order) at their final bids. See 47 CFR 90.905. In addition, if a default or disqualification involves gross misconduct, misrepresentation or bad faith by an applicant, the FCC may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. See 47 CFR 1.2107(d).

F. Service and Construction Requirements

EA-based licensees in the upper 200 channels of the 800 MHz SMR service are subject to a five-year construction deadline. See 47 CFR 90.685.

News Media Contact: Audrey Spivack
(202) 418-0654

Wireless Telecommunications Bureau
Contacts:

Internet address: <http://www.fcc.gov/wtb>

Auctions and Industry Analysis

Division:

Legal Questions (auctions rules)—

Alice Elder (202) 418-0660

General Information—Kathy Garland
(888) 225-5322 (press option #2 at
the prompt) and Ruby Hough (202)
418-0660

Commercial Wireless Division:

Legal Questions (service rules)—

Wilbert Nixon (202) 418-0620

Licensing Questions—Eric Smith and
Linda Spence (888) 225-5322 (press
option #2 at the prompt)

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

Attachment A—List of Licenses Offered

The attached table lists the 525 licenses to be auctioned in the upper 200 channels of the 800 MHz SMR service. The licenses consist of three licenses in each of 175 Economic Area ("EAs"). More information regarding EAs is available on the Commission's Office of Engineering and Technology's Internet web page at: <http://www.fcc.gov/oet/info/maps/bea/>

Attachment B—Guidelines for Completion of FCC Forms 159 and 175 and Exhibits

A. FCC Form 175

Because of the significance of the Form 175 application to the auction, bidders should especially note the following:

Paper form version: Manual filers must use a 1997 edition of the FCC Form 175 and the October 1995 edition of the 175-S (if applicable). Earlier versions of the FCC Form 175 will not be accepted. Copies of the FCC Form 175 can be obtained by calling the Commission's Forms Distribution Center at 1-800-418-3676 (outside Washington, D.C.) or 202-418-3676 (in the Washington area). Copies of the FCC Form 175 can also be obtained via Fax-On-Demand at 202-418-0177. If applicants have any questions concerning availability of the FCC Form 175, they should call the FCC Records Management Branch at 202-418-0210.

Items 2-5: Give a street address (not a Post Office box number) for the applicant, suitable for mail or private parcel delivery. The FCC will send all registration materials and other written communications to the applicant at this address.

Item 6: The 800 MHz SMR auction will be the sixteenth auction conducted

by the FCC. For "Auction No." in item 6 of the FCC Form 175, enter "16."

Item 7: Applicants must create a ten-digit FCC Account Number, which the Commission will use to identify and track applicants:

- A bidder that has a taxpayer identification number (TIN) must create this FCC account number by using its TIN, plus the prefix of "0" (*i.e.*, 0123456789). A TIN is either the Employer Identification Number (EIN) in the case of a business, or the Social Security Number (SSN) in the case of an individual.

- If—and only if—an applicant does not have a taxpayer identification number, the applicant should use its ten-digit area code and telephone number (*i.e.*, 2025551234) on an interim basis. However, the FCC must have a TIN before it will be able to issue a license or refund upfront payments.

Each applicant must include its FCC Account Number when submitting amendments, additional information, or other correspondence or inquiries regarding its application, and must include this same number on each FCC Form 159 (FCC Remittance Advice) accompanying required auction deposits or payments.

Item 8: Applicants must indicate their legal classification. The July 1997 version of FCC Form 175 requires the applicant to classify itself as an individual, partnership, trust, corporation, government entity, limited liability company (LLC) or association. In the event an applicant that classifies itself as a government entity, LLC or association uses an earlier version of the form (which does not include these specific classifications), it should check the box labelled "other" and specify its classification in the blank space provided.

Items 9 and 10: A box does not need to be checked in Item 9 unless small business status is selected in Item 10. Applicants should be aware that they will be committed to their election choices. (Applicants are also requested to indicate their status as a rural telephone company, minority-owned business or women-owned business as well, so the FCC can monitor its performance in promoting economic opportunities for these designated entities.) Be advised that this is the sole opportunity applicants have to elect small business status and bidding credit level (if applicable), and there is no opportunity to change the election(s) made once the short-form filing deadline passes.

- Small or very small business applicants eligible for bidding credits should check that gross revenues do not

exceed the maximum dollar amount specified in the FCC rules governing the auctionable service in Item 9.

- Small or very small business applicants should enter the applicable bidding credit in Item 10: either 25 or 35 percent. Applicants should be aware that this is the sole opportunity that they will have to elect the appropriate bidding credit.

- Applicants should leave the Installment Payment Plan Type blank, as none is available for this auction.

Item 11: For each license on which they seek bidding eligibility, applicants must identify the market number in the Market No. column, and the frequency block or blocks in the Frequency Block/Channel No. set of columns. The market number for each EA is listed in Attachment A; frequency blocks are A, B, and C. Applicants that wish to bid on all EAs in a given frequency block or blocks should check the "ALL" box in the Market No. column and list the frequency block or blocks desired in the Frequency Block/Channel No. headings. If filing manually, the FCC Form 175 provides space to list only five markets; applicants should use one or more FCC Form 175-S to list any additional markets.

Applicants should identify all licenses they want to be eligible to bid on in the auction in Item 11. Be advised that there is no opportunity to change this list once the short-form filing deadline passes. The FCC auction system will not accept bids on licenses an applicant has not applied for on its FCC Form 175.

Item 12: Applicants must list the name(s) of the person(s) (no more than three) authorized to represent them at the auction. Only those individuals listed on the FCC Form 175 will be authorized to place or withdraw bids for the applicant during the auction.

Certifications: Applicants should carefully read the list of certifications on the FCC Form 175. These certifications help to ensure a fair and competitive auction and require, among other things, disclosure to the Commission of certain information on applicant ownership and agreements or arrangements concerning the auction. Submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of 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.

Contact person: If the Commission wishes to communicate with the applicant by telephone or fax, those communications will be directed to the contact person identified on the FCC Form 175. Space is provided for both a telephone number, fax number, and e-mail address. All written communication and registration information will be directed to the applicant's contact person at the address specified on the FCC Form 175. Applicants must provide a street address; no P.O. Box addresses may be used.

Signature: Manually filed FCC Form 175s must bear an original signature. Absence of an original signature will result in dismissal of the application and disqualification from participating in the auction. (Applicants filing electronically should type the name of the certifying official in the signature block.)

Paper or Diskette Copies: For this auction the FCC will accept, in lieu of paper copies, a 3.5-inch diskette which contains ASCII text (.TXT) files of all exhibit documentation attached to the FCC Form 175. (Applicants that use a word processing program to prepare these files must be sure to save the files in the ASCII format before submitting the diskette, and verify that the ASCII files contain all exhibit information.)

Completeness: Applicants must submit all information required by the FCC Form 175 and by applicable rules, including a certifying signature on manual filings. Failure to submit required information by the resubmission date will result in dismissal of the application and inability to participate in the auction. See 47 CFR 1.2105(b).

Continuing Accuracy: Each applicant is responsible for the continuing accuracy and completeness of information furnished in the FCC Form 175 and its exhibits. See 47 CFR § 1.65. It is the FCC's position that ten business days from a reportable change is a reasonable period of time in which applicants must amend their FCC Form 175s. Applicants are reminded that Certification 6 on the FCC Form 175 includes consent to be audited.

B. Exhibits and Attachments

In addition to the FCC Form 175 itself, applicants must submit additional information required by the FCC's rules. Although we do not require a particular format for this information, we have developed the following guidelines that

will facilitate the processing of short-form applications. We encourage applicants filing both electronically and manually to submit this information using the following format. All exhibits must be in ASCII text (.TXT).

Exhibit A—Applicant Identity and Ownership Information: 47 CFR 1.2105(2)(ii) requires each applicant to fully disclose the real party or parties-in-interest in an exhibit to its FCC Form 175 application. The information should provide the name, citizenship and address of all partners, if the applicant is a partnership; or a responsible officer or director, if the applicant is a corporation; of the trustee, if the applicant is a trust; or, if the applicant is none of the foregoing, list the name, address and citizenship of a principal or other responsible person.

Exhibit B—Agreements with Other Parties/Joint Bidding Arrangements: Applicants must attach an exhibit identifying all parties with whom they have entered into any agreements, arrangements or understandings which relate in any way to the licenses being auctioned, including any relating to the post-auction market structure. See 47 CFR 1.2105(a)(2)(viii).

Be aware that pursuant to Certification (4) on the FCC Form 175, the applicant certifies that it will not enter into any explicit or implicit agreements or understandings of any kind with parties not identified in the application regarding bid amounts, bidding strategies or the particular licenses the applicant will or will not bid. See 47 CFR 1.2105(a)(2)(ix). To prevent collusion, the Commission's rules generally prohibit communication during the course of the auction among applicants for the same license areas when such communications concern bids, bidding strategies, or settlements. 47 CFR 1.2105(c).

Exhibit C—Status as a Small or Very Small Business Applicant: Applicants claiming status as a small or very small business must attach an exhibit regarding this status.

- Small or very small business applicants must state the average gross revenues for the preceding three years for the applicant (including affiliates), as prescribed by 47 CFR 90.913. Certification that the average gross revenues for the preceding three years do not exceed the required limit is not sufficient.

Exhibit D—Information Requested of Designated Entities: Applicants owned by minorities or women as defined in 47 CFR 1.2110(b), or who are rural telephone companies, may attach an

exhibit regarding this status. This information, in conjunction with the information in Item 10, will assist the Commission in monitoring the participation of these "designated entities" in its auctions.

Exhibit E—Miscellaneous

Information: Applicants wishing to submit additional information should include it in Exhibit E.

Applicants are reminded that all information required in connection with applications to participate in spectrum auctions is necessary to determine the applicants' qualifications, and as such will be available for public inspection. Required proprietary information may be redacted, or confidentiality may be requested, following the procedures set out in 47 CFR 0.459. Any such requests must be submitted in writing to Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW., Room 5322, Washington, DC 20554 (with a separate copy mailed to Alice Elder, Auctions Division), in which case the applicant must indicate in Exhibit E that it has filed a confidentiality request. Because the required information bears on applicants' qualifications, the FCC envisions that confidentiality requests will not be routinely granted.

Waivers: Applicants requesting waiver of any rules must submit a statement of reasons sufficient to justify the waiver sought.

Auction Specific Instructions: FCC Remittance Advice, FCC Form 159 Upfront Payments

The following information supplements the standard instructions for FCC Form 159, and is provided to help ensure its correct completion for upfront payments for the 800 MHz Specialized Mobile Radio Service (SMR) auction (Auction 16). Applicants need to complete FCC Form 159 carefully, since:

Mistakes may affect their bidding eligibility, and

Lack of consistency between information in FCC Form 159, FCC Form 175, FCC Form 600, and correspondence about an application may cause processing delays.

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 Short Form Application are described below.

Block No.	Required information
(RESERVED)	In the upper left hand corner of the form is a rectangle with "(RESERVED)" in the middle. Enter the number "358400" somewhere in this rectangle.
1	FCC Account Number—Same as FCC Form 175, block 7. Note: It is critical that this number exactly match the applicant's account number shown on FCC Form 175.
2	Total Amount Paid—Enter the total amount of the upfront payment associated with the FCC Form 159.
3	Payor Name—Enter the name of the person or company making the payment. If the applicant itself is the payor, this entry would be the same as FCC Form 175, block 1.
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 payor. If the applicant is the payor, these entries would be the same as FCC Form 175, blocks 2 through 5.
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).
14A	Payment Type Code—Enter "AW8U."
15A	Quantity—Enter the numeral "1."
16A	Amount Due—Enter the total upfront payment indicated in block 2.
17A	FCC Code 1—Enter the number "16" (indicating Auction 16).

Notes:

- Blocks 12A and 18A do not apply, so leave them blank.
- If applicant is different from the payor, complete blocks 11A, 13A, 19A, 20A and 21A for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since this auction does not involve multiple applications, leave blocks 11B through 21B blank. For the same reason, do not use Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- Since credit card payments will not be accepted for this auction, leave blocks 22 and 23 blank.

Attachment B contains blank copies of FCC Forms 175 and 159.

Electronic filers use on-line software to generate these forms and do not need paper copies. Manual filers can obtain paper copies by calling 202-418-FORM.

Attachment C—Electronic Filing of FCC Form 175

The Commission has implemented a remote access system to allow applicants to submit their FCC Form 175 applications electronically. The remote access system for initial filing of the FCC Form 175 applications will generally be available 24 hours per day beginning at approximately the same time as the release of this Public Notice. FCC Form 175 applications that are filed electronically using this remote access system must be submitted and confirmed by 5:30 p.m. ET on September 29, 1997. Late applications or unconfirmed submissions of electronic data will not be accepted. The electronic filing process consists of an initial filing period and a resubmission period to make minor corrections.

The FCC Remote Electronic Auction System includes various software, with which applicants can:

1. file an FCC Form 175 short-form application,
2. review other FCC Form 175 applications filed,

3. submit and withdraw bids and activity rule waivers,
4. receive auction messages/announcements and submit suggestions,
5. create and download customized round results files, and
6. file a long-form application.

In 1995 the FCC issued a Report and Order in WT Docket No. 95-69, FCC 95-308, 60 FR 38,276 (July 26, 1995), establishing fair and reasonable charges for auction software and on-line access to the FCC's wide area network to use the software. It established the following schedule of charges:

	Software	Access per minute
FCC Form 175 Filing	FREE ..	FREE.
FCC Form 175 Review ..	FREE ..	\$2.30.
Bid Submission	\$175.00	\$2.30.
Messages/Announcements.	FREE ..	\$2.30.
Suggestion Box	FREE ..	\$2.30.
Round Results Reports ..	FREE ..	\$2.30.
Bidding Analysis	FREE ..	Off-Line.

Parties interested in filing FCC Form 175 applications electronically may do so in one of two ways:

- Via a (202) number code telephone service with no additional access charge or
- Via a 900 number telephone service at a charge of \$2.30 per minute. The first minute of connection time to the 900 number service will be at no charge.

Similarly, parties interested in reviewing FCC Form 175 applications electronically will do so via the 900 telephone service at a charge of \$2.30 per minute. The first minute of connection time to the 900 number service will be at no charge. Applicants who wish to file their FCC Form 175 electronically or review other FCC Form

175 applications on-line will need the following hardware and software:

Hardware Requirements

- CPU: Intel 80486 or above
- RAM: 8 MB RAM (more recommended if you intend to open multiple applications)
- Hard Disk: 12 MB available disk space
- Modem: v.32bis 14.4kbps Hayes compatible modem
- Monitor: VGA or above
- Mouse or other pointing device

To create backup installation disks for the FCC Form 175 Application, you will need the following:

- 1.44 MB 3.5" Floppy Drive
- Three blank MS-DOS® formatted 1.44-MB floppy disks

Software Requirements

- FCC Form 175 Application Software (available through the Internet and the FCC Bulletin Board System)
- Microsoft Windows 3.1 or Microsoft Windows for Workgroups v3.11

Note: The FCC Form 175 Application has not been tested in a Macintosh, OS/2, or Windows 95 environment. Therefore, the FCC will not support operating systems other than Microsoft Windows 3.1 or Microsoft Windows for Workgroups v3.11. This includes any other emulated Windows environment. If your Windows is in a networked environment, check with your local network administrator for any potential conflicts with the PPP (Point-to-Point Protocol) Dialer that is incorporated into the FCC Form 175 Application. This usually includes any TCP/IP installed network protocol.

The PPP Dialer that is incorporated into the FCC Form 175 Application will establish a point-to-point connection from your PC to the FCC Network. This point-to-point connection is not routed through the Internet.

Applicants who wish to file their FCC applications electronically or who wish to view other applicants' applications

must first download the software from either the Internet or the FCC Bulletin Board System. Applicants must download the following compressed files to install the software: f175v11a.exe, f175v11b.exe, f175v11c.exe.

Download Method 1: Internet Access

You may download the compressed files from your Internet browser using either http or ftp, as described in the following sections.

- **Internet Browser via http:** <http://www.fcc.gov>
 1. Connect to your Internet service provider and start your Internet browser.
 2. Enter the following location: <http://www.fcc.gov>
 3. Click on Auctions
 4. Scroll down to Auction 16 and click on the Auctions Tools/Programs icon.
 5. Download the following files: f175v11a.exe, f175v11b.exe, f175v11c.exe
- **Internet Browser via ftp:** ftp://ftp.fcc.gov/pub/Auctions/SMR/800/Auction_16/Programs
 1. Connect to your Internet service provider and start your Internet browser.
 2. Enter the following location: <ftp://ftp.fcc.gov>
 3. Click on the pub directory
 - Click on the Auctions directory
 - Click on the SMR directory
 - Click on the 800 directory
 - Click on the Auction_16 directory
 - Click on the Programs directory
 4. Download the following files: f175v11a.exe, f175v11b.exe, f175v11c.exe

Download Method 2: Dial-In Access to the FCC Auction Bulletin Board System (BBS): The FCC Auction Bulletin Board System (BBS) provides dial-in access for the FCC Form 175 Application Software. To access the FCC Auction BBS, use a communications package that can handle at least Xmodem protocol (such as PcAnyWhere, Procomm, or Microsoft Terminal in Windows 3.x) to dial in to (202) 682-5851. Use the settings of 8 data bits, no parity and 1 stop bit (8,N,1). Once your computer is connected to the Auction BBS, do the following:

1. To create an account:
 - (a) Enter your first name.

Note: Throughout these instructions, "enter" means to type the appropriate information and then press the Enter key.

 - (b) Enter your last name.
 - (c) When asked whether you want to create an account, enter Y.
 - (d) When prompted, enter a password.

The password can be from four to ten characters long, where the characters can be either letters or numbers.

- (e) To confirm the password, enter it again.
 - (f) When prompted for contact information, enter your voice phone number. Include the area code; for example, you might enter 202-555-1234.
 - (g) Enter your company name.
2. On the Welcome screen, enter C for Continue. (You may also enter c, the program accepts either case.)
 - Since C is the default (automatic) selection, you can also just press Enter to continue.
 3. When asked whether you want to view the bulletin menu. Enter Y for Yes. Then, to continue, press Enter to obtain the FCC Auction BBS Main Menu.
 4. Enter A (for Auction Menu) to obtain the Auction Library Menu. The top options on this menu provide a range of numbers to represent the available auctions.
 5. To select Auction 16, enter B to select the second range.
 6. On the Auctions Library Menu, enter the number of the auction you want. Enter 16, in this case.
 - The Auction Menu appears.
 7. Enter P to select Program files. The list of available files for Auction 16 appears. These files are sorted by date, with the most recent files at the beginning of the list.
 8. To scroll downward to the next screen of file names, either press Enter or enter C for Continue. To scroll upward to the preceding screen of file names, enter P for Previous.

Note that on each screen, file names are numbered separately, starting with 1.

9. To select one or more files for downloading or viewing, mark the files you want. The program marks a file by preceding its name with an asterisk (*).
 - You can do the following:
 - To mark an individual file, enter its line number.
 - To mark a range of files, enter M (for Mark) and then enter the range of files in response to the prompt.
 - For example, to mark files 6 through 12, enter 6-12 at the prompt.
 - To unmark a file, enter its number again.

You can also use Mark to unmark a range of files. Use any of these techniques to mark the following files: f175v11a.exe, f175v11b.exe, f175v11c.exe

10. When you have finished marking files, download them as follows:
 - (a) Enter D for Download.

The program displays a list that summarizes the download operation. The Time column lists the download time for each file; the Total Time column lists a running total of the download times.

- (b) Enter D to proceed.

(c) Select the file transfer protocol that has been specified in your terminal emulation software (e.g., Xmodem or Zmodem). When the download operation has finished, the list of files reappears.

11. Enter X to leave the BBS.

Extracting the FCC Form 175 Application

The FCC Form 175 Application files are downloaded in a self-extracting, compressed file format. When you have downloaded all of the compressed files for the FCC Form 175 Application, you must extract the FCC Form 175 Application from those files. To extract the software, start File Manager in the Main Program group, open the file folder where you downloaded the files, and double-click on f175v11a.exe. A message will appear listing the default directory to which the software will extract. If this directory does not exist, it will be created automatically. Press Unzip to begin extracting the software from the compressed file. When the extraction is complete, a message will appear listing the number of files that were unzipped. Press OK and repeat the above process for the remaining compressed files (f175v11b.exe, f175v11c.exe). Be sure to extract to the same directory as the first compressed file.

Installing the FCC Form 175 Application

After you extract the software from the compressed files, you must install the FCC Form 175 Application. To install the software, start File Manager, open the file folder to which you extracted the software, and double-click on setup.exe.

To begin, the setup program shows a screen listing the default directory to which the software will install. Press the Install button, then press OK to install to the specified directory. If the directory does not exist, the setup program will create it automatically.

When the installation is complete, a message may appear asking you to restart Windows so that the changes made by the installation may take effect. Press Restart to restart Windows or press Stay Here to restart at a later time. Do not use the FCC Form 175 Application until you have restarted Windows.

Creating Backup Installation Disks for the FCC Form 175 Application

To create backup installation disks for the FCC Form 175 Application, go to File Manager, open the file folder to which you extracted the software, double-click on backup.bat, and follow the instructions on the screen.

Running the FCC Form 175 Application

When the installation process is complete, you will have a new Program Manager group called FCC Form 175 Application v11 with the following icons: Configure PPP, FCC Form 175 Submit, FCC Form 175 Review, Suggestion Box, Readme File, and Uninstall. You must verify/modify the parameters in the Configure PPP program prior to establishing a PPP connection. Please consult the readme.txt file included with the software for information regarding Configure PPP.

Double-click on an icon to start the respective system.

Uninstalling the FCC Form 175 Application

To uninstall the FCC Form 175 Application, double-click on the Uninstall icon in the FCC Form 175 v11 program group. Press Start to uninstall the software.

Note that the Uninstall program will remove all versions of the FCC Form 175 software located in that installation directory.

Alternatively, you may uninstall the FCC Form 175 Application by deleting the directory to which you installed the software, then switching to Program Manager and deleting the FCC Form 175 v11 icons and group.

Help

Detailed instructions for using all FCC Remote Electronic Auction System software are contained in the readme file associated with the software and in the context-sensitive help function associated with each software system.

For technical assistance in installing or using the FCC Form 175 Application, contact the FCC Technical Support Hotline at (202) 414-1250. The FCC Technical Support Hotline will be generally available Monday through Friday, from 9 a.m. to 6 p.m. ET.

How To Monitor FCC Auctions

Auction announcements and round results for Auction 16 will be accessible through the FCC Wide Area Network, the Internet and the FCC Auction Bulletin Board System (BBS). Using these tools, you can check on round results and/or read material released by the Commission during the course of the

auction. Additionally, a software tool for tracking the progress of the FCC's SMR 800 MHz auction will be made available to the public prior to the start of the auction. The software for the tracking tool will be available via the Internet and the FCC Auctions Bulletin Board System. A public notice will be released to provide detailed installation and access instructions.

Disclaimer. The Commission makes no warranty whatsoever with respect to the auctions tracking software packages. 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 business information, or any other loss) arising out of or relating to the existence, furnishing, functioning or use of the auctions tracking software packages. Moreover, no obligation or liability will arise out of the Commission's technical, programming or other advice or service provided in connection with the auctions tracking software packages.

Attachment D—Summary Listing of Documents From the Commission and the Wireless Telecommunications Bureau

Addressing Application of the Anti-Collusion Rules

To date, discussion concerning the anti-collusion rules may be found in the following Commission and Bureau items:

Commission Decisions

Second Report and Order in PP Docket No. 93-253, FCC 94-61, 59 FR 18493, 9 FCC Rcd 2348 (1994), paragraphs 221-226.

Fifth Report and Order in PP Docket No. 93-253, FCC 94-178, 59 FR 37,566, 9 FCC Rcd 5532 (1994), paragraphs 91-92.

*Internet Address: <http://www.fcc.gov/wtb/auctions/smr200u1/frao3253.pdf/txt/wp>

Second Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-215, 59 FR 44,272, 9 FCC Rcd 7245 (1994), paragraphs 48-55.

Fourth Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-264, 59 FR 53364, 9 FCC Rcd 6858 (1994), paragraphs 47-60.

*Internet Address: <http://www.fcc.gov/wtb/auctions/smr200u1/fmo04264.pdf/txt/wp>

Memorandum Opinion and Order in PP Docket No. 93-253, FCC 94-295, 9 FCC Rcd 7684 (1994), paragraphs 8-12.

In re Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd 4277 (1995).

In re Applications of GWI PCS, Inc. For Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C, *Memorandum Opinion and Order*, DA 96-674 (released April 4, 1997).

Wireless Telecommunications Bureau Decisions

Order in PP Docket No. 93-253 and MM Docket No. 94-131, DA 95-2292, (released November 3, 1995).

Public Notices

"Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules," Public Notice, DA 95-2244 (released October 26, 1995).

*Internet Address: <http://www.fcc.gov/Bureaus/Wireless/Public-Notices/1995/da952244.txt>
"Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders," Public Notice, DA 96-1460 (released August 28, 1996). *Internet Address: <http://www.fcc.gov/wtb/auctions/smr200u1/da961460.txt/wp/pdf>

Letters From the Office of General Counsel and the Wireless Telecommunications Bureau

Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

Letter to Alan F. Ciamporocero from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1996).

Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 1, 1994).

Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 14, 1994).

Letter to Jonathan D. Blake and Robert J. Rini from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 95-2404 (released November 28, 1995).

Letter to Mark Grady from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 96-587 (released April 16, 1996).

Letter to David L. Nace from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 96-1566 (released September 17, 1996).

Miscellaneous

The Commission has received a formal complaint alleging that the practice of using "trailer" bids to signal interest in particular markets (e.g. by using the BTA number of a market as the final three digits of the bid amount) is an improper disclosure of bidding strategy, and as such violates the anti-collusion rule, 47 CFR 1.2105(c). The Commission has reached no determination on the merits of this argument. See *In re Application of Mercury PCS II, LLC to Bid in the Broadband PCS Auction for Authorization to Serve BTAs 013 (Amarillo, Texas) and 264 (Lubbock, Texas) on Frequency Blocks D, E and F (Auction No. 11), Emergency Motion for Disqualification* (filed November 26, 1996) and related pleadings.

***Please Note:** When the address is followed by .pdf/txt/wp, the document is available in more than one format. In order to review a document in its entirety (including footnotes), it is necessary to access the document in the Word Perfect or Acrobat Reader formats.

pdf = Acrobat Reader
txt = Text format
wp = Word Perfect format

[FR Doc. 97-24930 Filed 9-18-97; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

[DA 97-1933]

Comment Sought on Balanced Budget Provisions Calling for Reserve Prices or Minimum Opening Bids in FCC Auctions

Released September 5, 1997.

Report No. AUC-16-E (Auction No. 16)

When FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive) the recently enacted Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price is required or minimum opening bid established, unless it determines that such an assessment is not in the public interest. The Wireless Telecommunications Bureau recently announced the auction of 525 licenses in the upper 10 MHz of the 800 MHz Specialized Mobile Service (SMR), which is to begin October 28, 1997. In anticipation of that auction, and in light of the recently adopted legislation, it is proposed that a reserve price or minimum opening bid be established.

Specifically, it is proposed that in no event should any of the licenses in the

800 MHz auction be sold for less than the value of the upfront payment amounts specified for the licenses in the Public Notice released August 6, 1997 for that auction. The upfront payments for the 800 MHz SMR auction are based on a \$0.02 per MHz-POP formula, as was used in the 900 MHz SMR auction. The \$0.02 MHz-POP has been discounted for each Economic Area by 75 percent, with a floor of \$2,500, to account for the degree of incumbency for this service. Under this formulation, the minimum amount is \$2,500 and the maximum amount is \$717,571. Comment is sought on this proposal.

Parties should also comment on whether the upfront payment should be considered a reserve price or a minimum opening bid for this auction. 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. In a minimum opening bid scenario, the auctioneer often has the discretion to lower it later in the auction.

Furthermore, commenters should also address whether the amount of the reserve price or minimum opening bid should be capped to ensure that bidding is not deterred on high valuation markets, in particular. For example, a cap of \$250,000 could be applied.

Finally, if commenters believe that a reserve price or minimum opening bid equal to the upfront payment will result in substantial unsold licenses, or is not a reasonable amount, they should explain why this is so, and comment on the desirability of a reserve price or minimum opening bid greater or less than the upfront payment.

Comments are due on or before September 12, 1997. To file formally, parties must file an original and four copies. Parties may send comments to the Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street, NW., Washington, DC 20554. Comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, NW., Washington, DC 20554.

For further information concerning this proceeding, contact Alice Elder at the Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (202) 418-0660.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97-24931 Filed 9-18-97; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 11, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379.

Federal Communications Commission

OMB Control No.: 3060-0789.

Expiration Date: 03/31/98.

Title: Modified Alternative Plan, CC Docket No. 90-571, Order (1997 Suspension Order).

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 36 respondents; 13 hours per response (avg.); 468 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Frequency of Response: On occasion; one-time requirement.

Description: Title IV of the Americans with Disabilities Act of 1990 ("ADA") requires each common carrier providing voice transmission services to provide Telecommunications Relay Services ("TRS") throughout the area it serves to individuals with hearing and speech disabilities by 1993. The TRS enables customers with hearing or speech disabilities to use the telephone network in ways that are "functionally equivalent" to those used by customers using traditional telephone service. Under the Commission's rules, the TRS must be able to handle all calls normally provided by common carriers, unless those carriers demonstrate the infeasibility of doing so. 47 CFR 64.604(a)(3). The Commission has interpreted "all calls" to include coin sent-paid calls, which are calls made by depositing coins in a standard coin-