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specified price, or provide other information as specified by competitive bidding policies, rules, and procedures.

(iv) Procedures allowing for bids that are contingent on specified conditions, such as other bids being accepted or for packages of licenses being awarded.

(v) Procedures to collect bids in one or more stages, including procedures for transitions between stages.

(vi) Procedures for whether, when, and how bids may be modified during the auction.

(2) *Procedures for assigning winning bids.* (i) Procedures that take into account one or more factors in addition to the submitted bid amount, including but not limited to the amount of bids submitted in separate competitive bidding.

(ii) Procedures to assign specific items to bidders following bidding for quantities of generic items.

(iii) Procedures to incorporate public interest considerations into the process for assigning winning bids.

(3) *Procedures for determining payments.* Procedures to determine the amount of any payments made to or by winning bidders consistent with other auction design choices.

[79 FR 48528, Aug. 15, 2014]

§ 1.2104 Competitive bidding mechanisms.

(a) *Sequencing.* The Commission will establish the sequence in which multiple licenses will be auctioned.

(b) *Grouping.* In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determine which licenses will be auctioned simultaneously or in combination.

(c) *Reserve Price.* The Commission may establish a reserve price or prices, either disclosed or undisclosed, below which a license or licenses subject to auction will not be awarded. For any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) requiring the recovery of estimated relocation costs, the Commission will establish a reserve price or prices pursuant to which the total cash proceeds from any auc-

tion of eligible frequencies shall equal at least 110 percent of the total estimated relocation costs provided to the Commission by the National Telecommunications and Information Administration pursuant to section 113(g)(4) of such Act (47 U.S.C. 923(g)(4)).

(d) *Minimum Bid Increments, Minimum Opening Bids and Maximum Bid Increments.* The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms. The Commission also may establish minimum opening bids and maximum bid increments on a service-specific basis.

(e) *Stopping procedures.* Before or during an auction, procedures may be established regarding when bidding will stop for a round, a stage, or an entire auction, in order to terminate the auction within a reasonable time and in accordance with public interest considerations and the goals, statutory requirements, rules, and procedures for the auction, including any reserve price or prices.

(f) *Activity Rules.* The Commission may establish activity rules which require a minimum amount of bidding activity.

(g) *Withdrawal, Default and Disqualification Payment.* As specified below, when the Commission conducts an auction pursuant to § 1.2103, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, or who default on payments due after an auction closes or who are disqualified.

(1) *Bid withdrawal prior to close of auction.* A bidder that withdraws a bid during the course of an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or subsequent auction(s). In the event that a bidding credit applies to any of the bids, the bid withdrawal payment is either the difference between the net withdrawn bid and the subsequent net winning bid, or the difference between the gross withdrawn bid and the subsequent gross winning bid, whichever is less. No withdrawal payment will be assessed

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for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid. The withdrawal payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission. In the case of multiple bid withdrawals on a single license, the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn in the same or subsequent auction(s). In the event that a license for which there have been withdrawn bids subject to withdrawal payments is not won in the same auction, those bidders for which a final withdrawal payment cannot be calculated will be assessed an interim bid withdrawal payment of between 3 and 20 percent of their withdrawn bids, according to a percentage (or percentages) established by the Commission in advance of the auction. The interim bid withdrawal payment will be applied toward any final bid withdrawal payment that will be assessed at the close of a subsequent auction of the corresponding license.

Example 1 to paragraph (g)(1). Bidder A withdraws a bid of \$100. Subsequently, Bidder B places a bid of \$90 and withdraws. In that same auction, Bidder C wins the license at a bid of \$95. Withdrawal payments are assessed as follows: Bidder A owes \$5 (\$100–\$95). Bidder B owes nothing.

Example 2 to paragraph (g)(1). Bidder A withdraws a bid of \$100. Subsequently, Bidder B places a bid of \$95 and withdraws. In that same auction, Bidder C wins the license at a bid of \$90. Withdrawal payments are assessed as follows: Bidder A owes \$5 (\$100–\$95). Bidder B owes \$5 (\$95–\$90).

Example 3 to paragraph (g)(1). Bidder A withdraws a bid of \$100. Subsequently, in that same auction, Bidder B places a bid of \$90 and withdraws. In a subsequent auction, Bidder C places a bid of \$95 and withdraws. Bidder D wins the license in that auction at a bid of \$80. Assuming that the Commission established an interim bid withdrawal payment of 3 percent in advance of the first auction, withdrawal payments are assessed as follows: At the end of the first auction, Bidder A and Bidder B are each assessed an interim withdrawal payment equal to 3 percent of their withdrawn bids pending Commission assessment of a final withdrawal payment (Bidder A would owe 3% of \$100, or \$3, and Bidder B would owe 3% of \$90, or \$2.70). At the end of the second auction, Bidder A

would owe \$5 (\$100–\$95) less the \$3 interim withdrawal payment for a total of \$2. Because Bidder C placed a subsequent bid that was higher than Bidder B's \$90 bid, Bidder B would owe nothing. Bidder C would owe \$15 (\$95–\$80).

(2) *Default or disqualification after close of auction.* A bidder assumes a binding obligation to pay its full bid amount upon acceptance of the winning bid at the close of an auction. If a bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to a default payment consisting of a deficiency payment, described in § 1.2104(g)(2)(i), and an additional payment, described in § 1.2104(g)(2)(ii) and (g)(2)(iii). The default payment will be deducted from any upfront payments or down payments that the defaulting bidder has deposited with the Commission.

(i) *Deficiency payment.* The deficiency payment will equal the difference between the amount of the defaulted bid and the amount of the winning bid in a subsequent auction, so long as there have been no intervening withdrawn bids that equal or exceed the defaulted bid or the subsequent winning bid. If the subsequent winning bid or any intervening subsequent withdrawn bid equals or exceeds the defaulted bid, no deficiency payment will be assessed. If there have been intervening subsequent withdrawn bids that are lower than the defaulted bid and higher than the subsequent winning bid, but no intervening withdrawn bids that equal or exceed the defaulted bid, the deficiency payment will equal the difference between the amount of the defaulted bid and the amount of the highest intervening subsequent withdrawn bid. In the event that a bidding credit applies to any of the applicable bids, the deficiency payment will be based solely on net bids or solely on gross bids, whichever results in a lower payment.

(ii) *Additional payment—applicable percentage.* When the default or disqualification follows an auction without combinatorial bidding, the additional payment will equal between 3 and 20 percent of the applicable bid, according to a percentage (or percentages) established by the Commission in

advance of the auction. When the default or disqualification follows an auction with combinatorial bidding, the additional payment will equal 25 percent of the applicable bid.

(iii) *Additional payment—applicable bid.* When no deficiency payment is assessed, the applicable bid will be the net amount of the defaulted bid. When a deficiency payment is assessed, the applicable bid will be the subsequent winning bid, using the same basis—i.e., net or gross—as was used in calculating the deficiency payment.

(h) The Commission will generally release information concerning the identities of bidders before each auction but may choose, on an auction-by-auction basis, to withhold the identity of the bidders associated with bidder identification numbers.

(i) The Commission may delay, suspend, or cancel an auction in the event of a natural disaster, technical obstacle, evidence of security breach, unlawful bidding activity, administrative necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. The Commission also has the authority, at its sole discretion, to resume the competitive bidding starting from the beginning of the current or some previous round or cancel the competitive bidding in its entirety.

(j) *Bid apportionment*—(1) *Apportioned license bid.* The Commission may specify a method for apportioning a bid among portions of the license (i.e., portions of the license's service area or bandwidth, or both) when necessary to compare a bid on the original license or portions thereof with a bid on a corresponding reconfigured license for purposes of the Commission's rules or procedures, such as to calculate a bid withdrawal or default payment obligation in connection with the bid.

(2) *Apportioned package bid.* The apportioned package bid on a license is an estimate of the price of an individual license included in a package of licenses in an auction with combinatorial (package) bidding. Apportioned package bids shall be determined by the Commission according to a methodology it establishes in advance of each auction with combinatorial bidding. The appor-

tioned package bid on a license included in a package shall be used in place of the amount of an individual bid on that license when the bid amount is needed to determine the size of a designated entity bidding credit (see § 1.2110(f)(1), (f)(2), and (f)(4)), a new entrant bidding credit (see § 73.5007 of this chapter), a bid withdrawal or default payment obligation (see § 1.2104(g)), a tribal land bidding credit limit (see § 1.2110(f)(3)), or a size-based bidding credit unjust enrichment payment obligation (see § 1.2111(b), (c)(2) and (c)(3)), or for any other determination required by the Commission's rules or procedures.

[59 FR 44293, Aug. 26, 1994, as amended at 63 FR 2341, Jan. 15, 1998; 65 FR 52344, Aug. 29, 2000; 68 FR 42995, July 21, 2003; 71 FR 6226, Feb. 7, 2006; 79 FR 48529, Aug. 15, 2014; 80 FR 56809, Sept. 18, 2015]

§ 1.2105 Bidding application and certification procedures; prohibition of certain communications.

(a) *Submission of Short-Form Application (FCC Form 175).* In order to be eligible to bid, an applicant must timely submit a short-form application (FCC Form 175), together with any appropriate upfront payment set forth by Public Notice. All short-form applications must be filed electronically.

(1) All short-form applications will be due:

(i) On the date(s) specified by public notice; or

(ii) In the case of application filing dates which occur automatically by operation of law, on a date specified by public notice after the Commission has reviewed the applications that have been filed on those dates and determined that mutual exclusivity exists.

(2) The short-form application must contain the following information, and all information, statements, certifications and declarations submitted in the application shall be made under penalty of perjury:

(i) Identification of each license, or category of licenses, on which the applicant wishes to bid.

(ii)(A) The applicant's name, if the applicant is an individual. If the applicant is a corporation, then the short-form application will require the name and address of the corporate office and