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Federal Communications Commission.

William F. Caton,

Acting Secretary.

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[DA 97-477; Report No. AUC 97-01]

Auction of Satellite Digital Audio Radio Service; Auction Notice and Filing Requirements For 2 DARS Licenses Scheduled for April 1, 1997

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Wireless Telecommunications Bureau announced the application procedures for the upcoming DARS auction (Auction #15) in a Public Notice dated March 6, 1997. The auction is scheduled to begin on April 1, 1997 and will consist of two nationwide licenses. The purpose and intent of the notice is to inform the general public and the four DARS applicants of the auction procedures the Commission will utilize in Auction #15 and the filing requirements to become an eligible bidder.

FOR FURTHER INFORMATION CONTACT:

Amy Zoslov, Christina Clearwater, or Ruby Hough, Wireless Telecommunications Bureau, at (202) 418-0660, or Rosalee Chiara, at (202) 418-0754, or Ron Repasi, at (202) 418-0768, of the International Bureau.

SUPPLEMENTARY INFORMATION:

1. *Auction Date:* 9 a.m., Eastern Time, April 1, 1997. The precise schedule for bidding will be announced by Public Notice prior to the start of the auction.

2. *Auction Methodology:* Simultaneous multiple round auction. Bidding will be permitted only at the FCC Auction site, 2 Massachusetts Avenue, NE., Washington, DC. (adjacent to Union Station; entrance on North Capitol Street). Telephonic bids and electronic bids from remote locations will not be accepted.

3. *Licenses to be Auctioned:* Two nationwide licenses will be auctioned in the satellite Digital Audio Radio Service ("DARS"). Licenses will authorize service on 12.5 MHz of spectrum over the continental United States located in the S-band of 2320-2354 MHz.

License No.	Spectrum authorized
EBN001	2320-2332.5 MHz
EBN002	2332.5-2345 MHz

In addition to the Supplemental Information described below, applicants must indicate to the FCC the license(s) on which they intend to bid.

4. *Closed Auction:* Participation in this auction will be limited to the following four entities: American Mobile Radio Corporation, Digital Satellite Broadcasting Corporation, Primosphere Limited Partnership, and Satellite CD Radio, Inc.

5. *Pre-Auction Deadlines:*

*Supplemental Information

5:30 p.m., ET, on the fifth day from publication of the DARS rules in the **Federal Register**. This day will be specified in a subsequent Public Notice.

*Upfront Payment of \$3 million (by Wire Transfer)

3 p.m., ET, Fri., March 28, 1997

*Auction Registration

2 p.m.-3 p.m., ET, March 31, 1997

*Mock Auction

3 p.m.-5 p.m., ET, March 31, 1997

6. *Prohibition of Collusion:* To ensure the competitiveness of the auction process, the FCC's rules prohibit all applicants from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins with the filing deadline of the Supplemental Information and ends when bidders submit down payments.

7. *Telephone Contacts:*

- FCC Technical Support Hotline: (202) 414-1250
- Wireless Bureau—Auctions Division
 - Amy Zoslov: (202) 418-0660
 - Ruby Hough: (202) 418-0660
 - Christina Clearwater: (202) 418-0660
- International Bureau
 - Rosalee Chiara: (202) 418-0754
 - Ron Repasi: (202) 418-0768

8. *List of Attachments:*

- Attachment A: Federal Communications Commission DARS Licenses Auction; Auction Specific Instructions, FCC Remittance Advice, FCC Form 159
- Attachment B: FCC Remittance Advice (FCC Form 159) and Instructions for Using FCC Form 159 (Remittance Advice)

I. Introduction

9. Those wishing to participate in the DARS auction must submit certain supplemental information ("Supplemental Information") in accordance with the Commission's rules and the instructions in this Public Notice. The FCC will not issue a Bidder Information Package for this auction. All information necessary to participate in this auction will be available through

this Public Notice, subsequent Public Notices, or the Commission's Rules. See 47 CFR § 1.2101-1.2103, 1.2104(a) through (f), (h) and (i), and 25.401-25.406; Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, *Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, FCC 97-70 (released March 3, 1997) ("DARS Report and Order").

10. The Supplemental Information must be received no later than 5:30 p.m. Eastern Time on the fifth day from the publication of the DARS rules in the **Federal Register**. This date will be specified in a subsequent Public Notice. Applicants for the DARS auction must file their Supplemental Information manually pursuant to the instructions set forth in this Public Notice.

11. Applicants will be required to submit an upfront payment (in U.S. dollars) to be eligible to participate in the auction. The upfront payment shall be made by wire transfer and must be received by 3 p.m. Eastern Time on March 28, 1997, at the Mellon Bank in Pittsburgh, Pennsylvania.

12. Prospective bidders must familiarize themselves thoroughly with the procedures, terms and conditions contained in this Public Notice. The rules contained in the DARS Report and Order in IB Docket No. 95-91 and GEN Docket No. 90-357, FCC 97-70 (released March 3, 1997), this Public Notice, and subsequent Public Notices 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.

13. The information contained in this Public Notice may be subsequently amended or supplemented by the FCC or the Wireless Telecommunications Bureau at any time. The Wireless Telecommunications Bureau will issue Public Notices to convey new or supplemental information to prospective bidders. It is the responsibility of all prospective bidders to remain fully informed regarding all FCC rules and Public Notices pertaining to this auction. FCC Public Notices and other FCC documents may be obtained for a fee by calling the FCC duplication contractor, International Transcription Services, Inc., at (202) 857-3800. Additionally, prospective bidders may retrieve some of these documents from the FCC Internet site using ftp to connect as anonymous@ftp.fcc.gov, or via the world wide web at www.fcc.gov.

II. Bidder Eligibility and Pre-Auction Procedures

14. In order to be eligible to bid in the DARS auction, bidders must: (1) Satisfy the Commission's eligibility requirements, (2) submit the Supplemental Information, and (3) remit an upfront payment in compliance with applicable FCC rules and regulations.

A. Eligibility Requirements

15. Eligibility to participate in this auction is reserved for those four parties who filed DARS applications by the December 15, 1992 cut-off date. They are as follows:

1. American Mobile Radio Corporation
2. Digital Satellite Broadcasting Corporation
3. Primosphere Limited Partnership
4. Satellite CD Radio, Inc.

16. Bidders may win only one license, and as such will be permitted to be active on only one license at a time. However, bidders will be permitted to bid on either license during the course of the auction provided they indicate this intention in their Supplemental Information (see below).

B. Supplemental Information

17. In order to be eligible to bid, applicants must submit Supplemental Information to the Commission. For this auction, the Supplemental Information will replace the FCC Form 175 that the FCC has used in previous auctions. This information must be received by the FCC no later than 5:30 p.m. Eastern Time on the fifth day from the publication of the DARS rules in the **Federal Register**. This date will be specified in a subsequent Public Notice. Late Supplemental Information will not be accepted. This supplemental information must be submitted by hand delivery, by certified U.S. mail, or by private courier. Electronic submissions will not be accepted. Applicants should carefully review 47 CFR 1.2101-1.2103, 1.2104(a) through (f), (h) and (i), and 25.401-25.406 of the Commission's rules before submitting the Supplemental Information.

Required Supplemental Information

18. Because the FCC Form 175 is not required, bidders must submit the following supplemental information in printed form:

- a. Applicant Name.
- b. Mailing Address: 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 contact person (specified in item j. below) at this address.

- c. City.
- d. State.
- e. Zip Code.
- f. Auction Number 15.

g. FCC Account Number: 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 Account Number (SSAN) 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.

h. Authorized Bidder(s): 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 Supplemental Information filing will be authorized to place or withdraw bids for the applicant during the auction.

i. Name and Title of Person Certifying: Applicants should carefully read the following list of certifications. 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. The applicant must indicate the name and title of the certifying official. Submission of the Supplemental Information constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read this Public Notice's instructions and certifications, and that the contents of the Supplemental Information 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. Applicants must certify the following:

(a) The applicant is legally, technically, financially and otherwise qualified pursuant to 308(b) of the Communications Act and the Commission's rules and, to the extent that it applies, is in compliance with the foreign ownership provisions contained in section 310 of the Communications Act;

(b) The applicant is the real party-in-interest in this application and that there are no agreements or understandings other than those specified in the Supplemental Information, which provide that someone other than the applicant shall have an interest in the license;

(c) The applicant is aware that, if upon Commission inspection, this Supplemental Information is shown to be defective, the application may be dismissed without further consideration, and certain fees forfeited. Other penalties may also apply;

(d) The applicant, upon the deadline for filing the Supplemental Information, will not cooperate, collaborate, discuss, or disclose in any manner the substance of its bids or bidding strategies, or discuss or negotiate settlement agreements with other applicants until after the high bidder makes the required down payment;

(e) The applicant, or any party to this Supplemental Information, is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988; and

(f) The applicant is and will, during the pendency of its application and Supplemental Information, remain in compliance with any service-specific qualifications applicable to the license on which the applicant intends to bid including, but not limited to, financial qualifications.

(g) The applicant is not in default on any Commission authorizations and it is not delinquent on any extension of credit from any federal agency.

j. 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 Supplemental Information. Please provide a telephone number, fax number, and e-mail address (if available). All written communications and registration information will be directed to the applicant's contact person at the address specified on the Supplemental Information. Applicants must provide a street address; no Post Office Box addresses may be used.

k. Signature and Date: The Supplemental Information must bear an original signature of the certifying official. Absence of an original signature

will result in dismissal of the application and disqualification from participation in the auction.

•• In addition to this Supplemental Information, applicants must indicate the license(s) on which they intend to bid (*i.e.*, EBN001 and/or EBN002).

After the submission deadline for the supplemental information, the Commission will issue a Public Notice which will identify qualified and non-qualified applicants and the licenses for which each qualified applicant has applied. All applications are still subject to FCC approval.

C. Filing of Supplemental Information

19. Auction applicants must file their Supplemental Information in hard copy. Whether the Supplemental Information is mailed, hand delivered or sent by private courier, it must be sent to:

Office of the Secretary, Attn: Auction 15 Supplemental Information Processing, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554

20. Failure to sign Supplemental Information will result in dismissal of the application and inability to participate in the auction. Only original signatures will be accepted.

D. Application Fee

21. There is no application fee required when filing Supplemental Information. However, to be eligible to bid, an applicant must submit an upfront payment. See Section E below.

E. Upfront Payments

22. In order to be eligible to bid in the auction, applicants must submit an upfront payment together with an FCC Remittance Advice Form (FCC Form 159) to Mellon Bank.

23. All payments must be made in U.S. dollars and must be in the form of a wire transfer. Payments must be received by 3:00 p.m. Eastern Time, Friday, March 28, 1997. Failure to deliver the upfront payment in a timely manner will result in dismissal of the application and inability to participate in the auction.

(1) Amount of Upfront Payments

24. The upfront payment required to participate in the auction is \$3 million. This fully qualifies bidders to participate on either license. See DARS Report and Order.

(2) Making Auction Payments by Wire Transfer

25. To make an auction payment by wire transfer, an applicant must fax a completed FCC Remittance Advice Form (FCC Form 159) to Mellon Bank at

(412) 236-5702 at least one hour prior to placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, the applicant should write "Wire Transfer—Auction Payment for Auction Event #15". To submit funds by wire transfer, you will need the following information:

ABA Routing Number: 043000261

Receiving Bank: Mellon Pittsburgh

BNF: FCC/AC-910-0198

OBI Field: (Skip one space between each information item)

"AUCTIONPAY"

FCC ACCOUNT NO. (SAME AS ITEM (g) ON SUPPLEMENTAL INFORMATION)

PAYMENT TYPE CODE (ADAU)

FCC CODE ("15" INDICATING

AUCTION 15)

PAYOR NAME (SAME AS ITEM (a) ON SUPPLEMENTAL INFORMATION)

LOCKBOX NO. 358410

26. Given the abbreviated time period in which the Wireless Telecommunications Bureau must confirm receipt of upfront payments, the Bureau will require applicants to bring to the registration a wire transfer confirmation receipt from their bank certifying that the upfront payment funds have been transferred to the FCC account. This confirmation will serve as a reserve method to confirm that the required funds have been transferred to the FCC if there is any delay in obtaining electronic confirmation.

27. Detailed directions for completing the FCC Form 159 and a sample form are attached to this Public Notice.

III. Registration for the Auction

28. Only qualified applicants who have submitted timely upfront payments will be permitted to register for the auction. Registration will occur on March 31, 1997, from 2 p.m. ET to 3 p.m. ET at the FCC auction site. At least one authorized representative as stated in the applicant's Supplemental Information must register. This representative must have two forms of identification, one of which must be a photo identification. At the end of the registration process, bidders will be in possession of the following information:

- FCC Account Number (self-assigned in the Supplemental Information)
- Bidder Identification Number
- Login Name
- Login Password

29. All applicants will be pre-registered prior to the auction event.

30. Qualified bidders must be aware that lost login codes, passwords or bidder identification numbers can be replaced and/or distributed only at the FCC auction site located at 2

Massachusetts Avenue, NE, Washington, DC 20002. Please be advised that an authorized representative or certifying official, as designated on an applicant's Supplemental Information, must appear in person at the auction site with two forms of identification (one of which must be a photo identification) in order to receive replacement codes.

31. The FCC will allow qualified bidders an opportunity to use the bidding software following registration on March 31, 1997 from 3 p.m. ET to 5 p.m. ET. Specific instructions for the mock auction will be provided at registration.

IV. Auction Event and Bidding Rounds

32. The DARS auction will begin at 9 a.m. Eastern Time on Tuesday, April 1, 1997. Initially, bidding rounds are expected to last 30 minutes to allow bidders to become familiar with the bid submission process. The FCC expects the length of the bidding rounds to decrease as the auction progresses. The Commission will adjust the pace of the auction based on its monitoring of the bidding and assessment of auction progress. The precise schedule for bidding will be included in the registration package.

V. Auction Procedures

33. The two DARS licenses will be auctioned simultaneously. The high bid amount will be posted after the end of the bidding period. Information regarding all valid bids submitted in each round also will be posted.

A. Bid Submission and Withdrawal Procedures

(1) Bid Submission

34. Bidders must place their bids electronically at the FCC auction site. Each bidder will be required to log in to the FCC auction computer system, using a login name and login password unique to that bidder, and in addition must provide its Bidder Identification Number and FCC Account Number in order to place or withdraw a bid.

35. All accepted bids and the minimum valid bid amount for the next round will be announced after the conclusion of each bidding period. Bidders may receive a hard copy bid confirmation after they have submitted their bids by pressing the Print Bid Verification button on the Options screen.

36. Bidders will have the option of making multiple submissions in each bidding period. This is a change in the procedures from previous auctions. 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 changing or removing a bid placed in the same round is not subject to bid withdrawal payments.

37. Only persons authorized in the applicant's Supplemental Information to make or withdraw a bid will be allowed to enter the bidding booth. Each authorized representative will be required to show photo identification to enter the bidding booth.

(2) Bid Withdrawals

38. A high bidder that withdraws its standing high bid is subject to the bid withdrawal payment specified in § 1.2104(g)(1) of the Commission's rules. Bid withdrawal will be permitted only after a round in which there have been no new bids or proactive waivers. After a round with no new bids or proactive waivers, the Commission will specify a bid withdrawal period. If one or both of the standing high bids from a previous round are withdrawn, the Commission will reoffer the license or licenses in the next round. To prevent multiple withdrawals by the same party in the same auction, the Commission will bar a bidder who withdraws a bid from continued participation in that auction.

39. The offer price for a withdrawn license will be the highest price at or above which bids were made by four distinct bidders in any previous round and on any license. If there is no price at or above which bids were made in previous rounds by four bidders, then the Commission will reoffer the license in the next round at the minimum opening bid for the license. The Commission may at its discretion reduce the offering price in subsequent rounds if it receives no bids at this price. Prior to restarting the auction, the Commission will also restore the eligibility of all bidders who have not withdrawn. If eligibility is not restored, it is possible, given the activity rules, that no bidders would be eligible to bid when a license is reoffered after a bid withdrawal. Restoring eligibility of all but those who withdrew will ensure the maximum number of sincere bidders for the license when the auction is restarted. After a withdrawal, the Commission will also issue each eligible bidder one activity rule waiver in addition to any remaining waivers, subject to a maximum of three, to provide additional time for bid preparation and to avoid accidental disqualification.

B. Minimum Opening Bid, Bid Increments, and Tie Bids

(1) Minimum Opening Bid

40. The FCC believes that it is useful to have a minimum opening bid to help move the auction along. Therefore, the Commission has established a minimum opening bid of \$8 million each for these licenses. Based on our observations of the market, the FCC believes this minimum opening bid is high enough to move the auction along at a rapid pace, but significantly below the expected final bid for the spectrum. See DARS Report and Order, para. 159.

(2) Bid Increments

41. The minimum bid increment is the amount or percentage by which a bid must be raised above the previous high bid in order to be accepted as a valid bid in the current round. The amount of the minimum valid bid for each license (generally, the sum of the minimum bid increment and the high bid from the previous round) will be announced at the beginning of each round. See 47 CFR 25.402.

42. Once a bid has been received for a license, the minimum bid increment will be ten (10) percent of the previous high bid on that license. The Commission retains the discretion to establish, raise and lower minimum bid increments in the course of the auction. This discretion is necessary to ensure that the Commission can efficiently control the pace of the auction.

(3) Tie Bids

43. Each bid will be date and time stamped when it is entered into the computer system. In the event of tie bids, the Wireless Telecommunications Bureau will identify the high bidder on the basis of the order in which bids are received, starting with the earliest bid. See 47 CFR 25.402.

C. Activity Rules

44. In order to ensure that the auction closes within a reasonable period of time, the Commission will impose an activity rule to discourage bidders from waiting until the end of the auction before participating. See generally 47 CFR 25.402.

(1) Activity Requirements

45. Bidders must be active on one license in each round of the auction or use an activity rule waiver, as defined below. Bidders will not be permitted to be active on more than one license in a single round. To be active in the current round, a bidder must submit a valid bid in the current round or have the high bid from the previous round. A bidder

who is not active in a round and has no remaining activity rule waivers will no longer be eligible to bid on the licenses being auctioned. However, as discussed above, in the event of a bid withdrawal, the eligibility of all bidders who have not withdrawn will be restored.

(2) Activity Rule Waivers

46. Bidders will be provided three activity rule waivers that may be used in any round during the course of the auction. A waiver will preserve eligibility in the next round. Waivers may be applied automatically by the Commission or invoked proactively by bidders. If a bidder is not active in a round, a waiver will be applied automatically if any waivers remain. An automatic waiver applied in a round in which there are no new valid bids will not keep the auction open. A proactive activity rule waiver is a waiver invoked by a bidder during the bidding period. If a bidder submits a proactive waiver in a round in which no other bidding activity occurs, the auction will remain open. Therefore, if a bidder does not intend to bid but wants to ensure that the auction does not close, it should enter a proactive waiver in place of a bid.

47. The Commission retains the discretion to issue additional waivers during the course of the auction for circumstances beyond a bidder's control or in the event of a bid withdrawal, as discussed above.

D. Stopping Rules

48. A stopping rule specifies when an auction is over. The auction will close after one round passes in which no new valid bids or proactive waivers are submitted on both licenses, subject to the following two qualifications. First, if a high bidder withdraws its bid during the bid withdrawal period the Commission will reoffer the license in the next round as specified in Section A.2 above. Second, the Commission retains the discretion to keep an auction open even if no new valid bids and no proactive waivers are submitted. In the event that the Commission exercises this discretion, the effect will be the same as if a bidder had submitted a proactive waiver. See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, *Second Report and Order*, 59 FR 22980 (May 4, 1994).

VI. Delay, Suspension or Cancellation of the Auction

49. The Commission may, by Public Notice or by announcement during the auction, delay, suspend or cancel the auction in the event of natural disaster,

technical obstacle, evidence of auction security breach, unlawful bidding activity, administrative necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Commission may, in its sole discretion, resume the auction starting from the beginning of the current or some previous round or cancel the auction in its entirety.

VII. Default and Disqualification Payments

50. A default payment will be assessed if a winning bidder fails to pay the full amount of its 20 percent down payment or the balance of its winning bid in a timely manner, or is disqualified after the close of an auction. The amount of this default payment will be equal to the difference between the defaulting auction winner's "winning" bid and the amount of the winning bid the next time the license is offered for auction by the Commission, if the latter bid is lower. In addition, the defaulting auction winner will be required to submit a payment of three percent of the subsequent winning bid or three percent of its own "winning" bid, whichever is less. See 47 CFR 25.406. In the event that the amount of those payments cannot be determined (i.e., until the license has been reaucted), the FCC can require a "deposit" of at least three (3) percent, and at most twenty (20) 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 Will Strictly Enforce Default Payment Rules*, *Public Notice*, 61 FR 16914 (April 18, 1996).

51. If withdrawal, default or disqualification involves gross misconduct, misrepresentation or bad faith by an applicant, the Commission retains the option to declare the applicant and its principals ineligible to bid in future auctions, or take any other actions the Commission deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. See Implementation of section 309(j) of the Communications Act—Competitive Bidding, *Second Report and Order*.

VIII. Releasing Bidder Identities

52. Bidders' identities and FCC account numbers will be disclosed prior to the auction. Thus, bidders will know in advance of the auction the identities of the bidders against whom they are bidding.

IX. Collusion

53. To prevent collusion, § 25.405 of the Commission's rules prohibits applicants, after the deadline for filing Supplemental Information and before down payments are submitted, from cooperating, collaborating, discussing, or disclosing in any manner the substance of their bids or bidding strategies, or discussing or negotiating settlement agreements with other applicants. See 47 CFR 25.405.

X. Post-Auction Procedures

A. Down Payment

54. The winning bidder for each license must submit sufficient additional funds (a "down payment") to bring the amount of money on deposit (not including upfront payments applied to satisfy bid withdrawal or default payments) with the government to 20 percent of its winning bid within ten (10) business days after the high bidder is announced. See 47 CFR 25.404.

55. Specific information regarding the submission of down payments will be included in the Public Notice announcing the winning bidders.

B. Submission of License Application and Award of Licenses

56. The winning bidder for each license also will be required to file information in conformance with part 25 of the Commission's rules. This procedure will constitute the "long-form application" process referred to in our general auction rules. Winning bidders must file this information with the Commission within 30 days of the publication of the Public Notice announcing the winning bidders. Winning bidders must submit, as part of this post-auction application process, a signed statement describing their efforts to date and future plans to come into compliance with any applicable spectrum limitations, if they are not already in compliance. See 47 CFR 25.404.

57. After reviewing a winning bidder's information supplied in conformance with Part 25 and determining that the bidder is qualified to be a licensee, and after verifying receipt of the bidder's 20 percent down payment, the Commission will announce the application's acceptance for filing in a Public Notice, thus triggering the filing window for petitions to deny. If, pursuant to section 309(d) of the Communications Act, the Commission dismisses or denies any and all petitions to deny, the Commission will issue a Public Notice announcing this, and the winning

bidder will then have ten business days to submit the balance of its winning bid. If the bidder does so, the license will be granted subject to a condition, if necessary, that the permittee come into compliance with any applicable spectrum limitations within 12 months of the final grant. The licensee may come into compliance with this spectrum cap by either surrendering to the Commission its excess channels or filing an application that would result in divestiture of the excess channels. If the bidder fails to submit the balance of the winning bid or the license is otherwise denied, the FCC will assess a default payment as set forth above and reauct the license. See Section VII of this Public Notice.

C. Refund of Upfront Money

58. All applicants who submitted upfront payments, yet were not winning bidders, may be entitled to a refund of their upfront payments after the conclusion of the auction. Any refund will be conditioned upon the existence of excess funds on deposit after any applicable bid withdrawal payments have been deducted.

59. Because experience with prior auctions has shown that in most cases wire transfers provide quicker and more efficient refunds than paper checks, the FCC currently intends to use wire transfers for all Auction 15 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 funds.) In lieu of faxing, please mail the information to:

Federal Communications Commission,
ATTN: Linwood Jenkins, 1919 M
Street, NW., Room 450, Washington,
DC 20554

D. Construction Requirements

60. Licensees in satellite DARS must begin construction of or complete contracting for construction of their space stations within one year of license grant; launch and begin operating their first satellite within four years; and begin operating their entire system within six years. Failure to meet these milestone requirements will result in forfeiture of the license, and the licensee will be ineligible to regain it. See 47 CFR 25.214(b).

XI. Bidder Alert

61. The terms contained in the Commission's Rules, Reports, Orders, and Public Notices 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 making any bid.

62. All applicants must certify under penalty of perjury on their Supplemental Information that they are legally, technically, financially and otherwise qualified to hold a DARS license. 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, being barred from participating in future auctions, and/or criminal prosecution.

63. 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.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Attachment A—Federal Communications Commission; DARS Licenses Auction

Auction Specific Instructions FCC Remittance Advice, FCC Form 159

Upfront Payments

The following instructions are specifically written for the auction of DARS licenses.

These instructions are intended as a supplement to the standard instructions issued by the FCC's Billings and Collections Branch, at telephone number (202) 418-1995. Bidders should ensure that they complete the FCC Form 159 accurately, since mistakes may affect their bidding eligibility. Please note that it is vital that all forms, applications, correspondence, etc. submitted to the Commission by an applicant contain identical information necessary for verification purposes. To this end, appropriate references between the FCC Form 159 Remittance Advice and the Supplemental Information have been provided below:

Block No.	Required information
1	<i>FCC Account Number</i> —Same as Supplemental Information item "g". 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>i.e.</i> , 0123456789). A TIN is either the Employer Identification Number (EIN) in the case of a business, or the Social Security Account Number (SSAN) in the case of an individual.
2	<i>Total Amount Paid</i> —Enter the total remittance based on the payment amount. To bid in this auction, the upfront payment is \$3,000,000.
3	<i>Payor Name</i> —Enter the full name of the person or company (<i>i.e.</i> , maker of the check) responsible for payment.
4	<i>Street Address (Line 1)</i> —Same as Supplemental Information item "b". The street address to which correspondence should be sent.
5	<i>Street Address (Line 2)</i> —Same as Supplemental Information item "b". This line may be used if further identification of the address is required.
6	<i>City</i> —Same as provided in Supplemental Information item "c". The name of the city associated with the street address given in block (4) of the FCC Form 159.
7	<i>State</i> —Same as provided in Supplemental Information item "d". Enter the appropriate two-character abbreviation here.
8	<i>Zip Code</i> —Same as provided in Supplemental Information item "e". Enter the appropriate five-digit or nine-digit code here.
9	<i>Daytime Telephone Number</i> —Same as provided in Supplemental Information item "j". Enter the "payor's" ten-digit telephone number here.
10	<i>Country Code</i> —Used for payors who have addresses outside the U.S. Proper codes may be obtained from the Mailing Requirements Dept. of the U.S. Postal Service.

Note—If applicant, licensee, regulatee or debtor is the same as the payor, do not complete blocks 11, 13, 18, 19, 20, & 21. This auction does not involve multiple applications or filings, so the FCC is concerned only with the remaining blocks 12A, 14A, 15A, 16A & 17A.

	Item # "1" information
12A	<i>FCC Call Sign/Other Identifier</i> —Leave blank.
14A	<i>Payment Type Code</i> —Enter A D A U.
15A	<i>Quantity</i> —Enter the number "1".
16A	<i>Amount Due</i> —Enter total upfront payment indicated in block (2).
17A	<i>FCC Code 1</i> —Enter the number "15".

Note. In the upper left hand corner of the FCC form 159 is a rectangle with the word "(RESERVED)" typed in the middle of it. Please enter the number "358410" somewhere in this rectangle.

(RESERVED)

FEDERAL COMMUNICATIONS COMMISSION

FCC REMITTANCE ADVICE

Approved by OMB
3060-0589
Expires 2-28-97

SPECIAL USE

FCC USE ONLY

PAYOR INFORMATION

ITEM #1 INFORMATION

ITEM #2 INFORMATION

CREDIT CARD PAYMENT INFORMATION

FCC FORM 159
April 1994

**NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND THE PAPERWORK
REDUCTION ACT**

Section 9 of the Communications Act authorizes the FCC to request the information on this form. The information requested is required to recover costs incurred in carrying out its enforcement activities, policy and rulemaking activities, user information services, and international activities. The form will be used primarily to capture paper information in order to speed the refund process and maintain required accounts receivable information. It will also be used to collect fines and debts due the Commission.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Federal Communications Commission, Records Management Division, AMD-PIRS, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Paperwork Reduction Project (3060-0589), Washington, DC 20503.

**FEDERAL COMMUNICATIONS COMMISSION
INSTRUCTIONS FOR USING FCC FORM 159 (REMITTANCE ADVICE)
AND FCC FORM 159-C (Continuation Sheet)**

FCC FORM 159 — FCC Remittance Advice Form

The FCC Form 159, "Remittance Advice" is a multi-purpose form that generally accompanies (see chart below for specific instructions) any payment to the Federal Communications Commission (e.g., Regulatory Fees, Processing Fees, Fines, Forfeitures, Freedom of Information Act (FOIA) Billings, or any other debt due to the FCC). The information on this form is collected to ensure credit for full payment, to expedite any refunds due and to service public inquiries.

What Form Do I File?

If you are:	Then:
Paying a Regulatory Fee to the Private Radio Bureau,	You do not need to submit FCC Remittance Advice, FCC Form 159. However, you must pay your regulatory fee along with your processing fee, at the time of renewal or at the time of original license application.
Paying a Processing Fee by money order or credit card to any FCC Bureau,	You must submit FCC Remittance Advice, FCC Form 159.
Paying a Processing Fee and paying for more than one action with a single payment,	You must submit FCC Remittance Advice, FCC Form 159.
Paying a Processing Fee for a service that does not require a specific FCC Form, (e.g. Request for Special Temporary Authority),	You must submit FCC Remittance Advice, FCC Form 159.
Paying a Processing Fee to the Private Radio Bureau for a service that requires FCC Form 155,	You must submit FCC Remittance Advice, FCC Form 159 instead of Form 155.
Paying a Regulatory Fee to any one of the Mass Media, Common Carrier or Cable Services Bureau,	You must submit FCC Remittance Advice, FCC Form 159.
Paying for Fines/Forfeitures, Freedom of Information Act Fees or any other debts.	All customers paying for any of these categories must submit a FCC Remittance Advice, FCC Form 159 and a copy of their notice or invoice to the appropriate lockbox. Please refer to the specific instructions accompanying your billing document.
Paying for an Auction,	You must submit FCC Remittance Advice, FCC Form 159. Consult the FCC's Public Notice for specific instructions.
Paying by wire transfer,	You must submit FCC Remittance Advice, FCC Form 159.
Paying by Western Union Quick Collect,	You must submit FCC Remittance Advice, FCC Form 159.

Specific Form Instructions

(1) **FCC Account No.** — This is a self-assigned personal identification number that consists of ten digits. You **must** use your taxpayer identification number (TIN) with a prefix of "0" (e.g., 0123456789). **Only if you do not have a TIN**, you may use your ten-digit telephone number (e.g., 3012224567). **There are no other options available to you to create your FCC Account No.** This number will eventually be all you will need to file an application with the FCC, so once you have determined your FCC account number you must be sure to use this same number every time you send a payment to the FCC.

(2) **Total Amount Paid** — Enter the total amount of your remittance.

(3) **Payor Name** — Enter the name of the person or company (i.e., maker of the check) responsible for payment. Enter an individual name (last, first, middle initial). If a company, enter the name which is used commercially. If paying by credit card, complete this section with the full name of the cardholder.

(4) **Street Address (Line 1)** — The street address or post office box number to which correspondence should be sent.

(5) **Street Address (Line 2)** — This line may be used if further identification of the address is required.

(6) **City** — The name of the city associated with the street address given in (4).

(7) **State** — If the payor has a United States mailing address enter the appropriate two-digit state abbreviation as prescribed by the U.S. Post Office. If the payor has a mailing address outside the United States, leave this section blank.

(8) **ZIP Code** — Enter the appropriate five or nine-digit ZIP code prescribed by the U.S. Post Office. If address is foreign, enter the appropriate ZIP (postal) code.

(9) **Daytime Telephone Number** — Enter the payor's ten-digit daytime telephone number, including area code. For foreign telephone numbers include the appropriate country dialing access code, as if you were calling from the United States. [For example a United Kingdom number would have the prefix (011-44) followed by the number within the UK.] This daytime telephone number should tell us where you can be reached during normal business hours if necessary. If we cannot reach you at this number during normal business hours to resolve a problem, your filing may be returned.

(10) **Country Code** — This section is for those payors who have an address outside the United States of America. Enter the appropriate code here. To obtain country code information contact the Mailing Requirements Dept. of the U.S. Postal Service.

Read this before proceeding — IT MAY SAVE YOU TIME

If the Applicant, Licensee, Regulatee or Debtor is the same as the Payor, it is not necessary to reenter your name and address in blocks 11, 13, 19, 20, & 21. However, you must complete all information in blocks 12, 14, 15, & 16. (FCC codes in blocks 17 & 18 will only be completed in special circumstances as described in a Public Notice or in your Fee Filing Guide).

(11) **Name of Applicant, Licensee, Regulatee or Debtor** — Enter the name (last, first, middle initial) as it appears on the original application or filing being submitted. If this is a company, enter name which is used commercially. Each unique applicant, licensee, regulatee or debtor must be listed separately if multiple applications or filings are submitted. If this name is the same as the payor, (block 3), it is not necessary to fill out this section.

(12) **FCC Call Sign/Other Identifier** — Enter an applicable call sign or unique FCC identifier, if any, as prescribed by the appropriate FCC Fee Filing Guide or Public Notice that applies to you.

(13) **ZIP Code** — It is not necessary to complete this section if the Payor, (block 3), is the same as the Applicant, Licensee, Regulatee or Debtor, (block 11). Enter the five or nine-digit ZIP code prescribed by the U.S. Post Office. If address is foreign, enter the appropriate country code here.

(14) **Payment Type Code** — This section tells us what you are paying for. Beginning with the first box, enter the correct 3 or 4 character alphabetic Payment Type Code. This code can be found in the FCC Fee Filing Guide or Public Notice appropriate to your payment. **Incorrect Payment Type Codes may result in your application or filing, if applicable, being returned to you without further processing.** You are allowed to file multiple actions. There are three ways "multiple actions" are defined. The following examples provide instructions on how multiple actions should be filed when using FCC Forms 159 & 159-C:

(i) If a single service allows for a quantity of more than one of the same action, as defined in the appropriate Fee Filing Guide or Public Notice, complete only blocks 12, 13, 14, 15 & 16. Only

enter your name and address if different than "Payor Name" (block 3). Blocks 17 & 18 are only to be completed when required by Public Notice.

(ii) If you are filing concurrent actions (not the same actions) in the same lockbox, on the same application, refer to the Fee Filing Guide or Public Notice for specific instructions as to the number of quantities allowed. Complete only blocks 12, 13, 14, 15, & 16. Complete a separate "Item Information" section for each additional action required. Only enter your name and address if different than the "Payor Name" (block 3). Blocks 17 & 18 are only to be completed when required by public notice.

(iii) If a single Remittance Advice is used to pay for more than one applicant, licensee, regulatee or debtor, and action to the same lockbox, then a separate "Item Information" section must be completed for each one. For each "Item Information" section all blocks must be completed, except Blocks 17 & 18 which are only to be completed when required by Public Notice. **Remember, if any of these applications fall into category (i) or (ii) above, you must follow those instructions as well.**

(15) **Quantity** — Enter the number of actions required with this submission. Refer to the FCC Fee Filing Guide or Public Notice for information concerning multiple requests.

(16) **Amount Due** — Enter the amount of the fee required for the Payment Type Code used in (14) above.

(17) **FCC Code 1** — This section is used for special filing codes as required by the Bureau/Office

you are filing your application with. Applicant will receive specific instructions from the Bureau/Office if this block is to be used. Do not complete this block unless instructed to do so.

(18) **FCC Code 2** — (See instructions for item 17).

(19, 20, 21) **Address** — If the same as Payor address, in blocks (4) and (5), leave blank. If multiple payment codes have been used for the same Applicant, Licensee, Regulatee or Debtor, only fill out this section one time. If different from Payor Address, in blocks (4) and (5), complete these lines with the appropriate street address.

(22) **Credit Card Data** — If remitting payment by credit card place an "x" in the appropriate block for the type of credit card being used — MasterCard or Visa only. Enter your credit card number and expiration date. **If any area required for credit card approval is incomplete, the application will be returned unprocessed.**

(23) **Authorized Signature** — Sign and date the Remittance Advice Form to authorize all credit card payments. **The action will not be processed if it is not signed and dated here.**

FCC Remittance Advice Continuation Sheet (FCC Form 159-C) — Use this form for any additional services pertaining to this filing.

Checks must be denominated in U.S. currency and deposited in a U.S. financial institution. No checks drawn on a foreign bank will be accepted.

Where Do I File?

If you are paying a:	Then:
Regulatory Fee or Processing Fee	Consult the specific FCC Bureau Fee Filing Guide (i.e., Common Carrier Bureau Fee Filing Guide, Private Radio Bureau Fee Filing Guide, Mass Media Bureau Fee Filing Guide, Cable Services Bureau Fee Filing Guide, Field Operations Bureau Fee Filing Guide, Office of Engineering and Technology Fee Filing Guide)
Fine or Forfeiture	Pay to the address designated on the notice or invoice you received
Freedom of Information Act Fee	Pay to the address designated on the invoice you received
Other Debts	Pay to the address designated in the correspondence you received

Note: Fee Filing Guides can be obtained by calling Forms Distribution — **202-418-Form**
1-800-418-Form