

same subparagraph as other provisions regarding the timing of Auction No. 44, the conduct of Auction No. 44, and the deposit of the proceeds from Auction No. 44 in the U.S. Treasury. The timing provisions regarding the conduct of the auction and the deposit of the auction proceeds are significant because they indicate that Congress was only referring to one event, the conduct of Auction No. 44. Congress was not providing any instructions regarding the conduct of future auctions including the C and D block spectrum. Further, contrary to Banks's suggestion, nothing in the statute indicates that Congress was precluding in any manner a re-auction of the spectrum. Finally, Banks's interpretation of the Auction Reform Act is contrary to the statutory objectives of section 309(j) of the Communications Act. As Qualcomm notes in its comments, under Banks's interpretation of the Auction Reform Act, bidding on the licenses in Auction No. 49 would be limited to the same bidders that chose not to bid on the licenses when they were offered in Auction No. 44. This is unlikely to result in the licenses being awarded to the parties that value them most highly. Thus, absent explicit statutory language supporting Banks' interpretation, we decline to adopt the eligibility restrictions Banks suggests.

Accordingly, any entity wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6 p.m. ET, April 11, 2003.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, May 2, 2003.
- Comply with all provisions outlined in this public notice.

#### vi. General Contact Information

38. The following is a list of general contact information relating to Auction No. 49.

General Auction Information: General Auction Questions, Seminar Registration  
 FCC Auctions Hotline, (888) 225-5322, Press Option #2 or direct (717) 338-2888, Hours of service: 8 a.m.-5:30 p.m. ET  
 Auction Legal Information: Auction Rules, Policies, Regulations  
 Auctions and Industry Analysis Division, Legal Branch (202) 418-0660  
 Licensing Information: Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues  
 Commercial Wireless Division, (202) 418-0620.

Technical Support: Electronic Filing, FCC Automated Auction System  
 FCC Auctions Technical Support Hotline, (202) 414-1250 (Voice), (202) 414-1255 (TTY, Hours of service: Monday through Friday 8 a.m. to 6 p.m. ET).

Payment Information: Wire Transfers, Refunds

FCC Auctions Accounting Branch, (202) 418-0578 or (202) 418-0496, (202) 418-2843 (Fax)

Telephonic Bidding: Will be furnished only to qualified bidders

FCC Copy Contractor: Additional Copies of Commission Documents

Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 863-2893, (202) 863-2898 (Fax), [qualexint@aol.com](mailto:qualexint@aol.com) (E-mail)

Press Information: Lauren Kravetz (202) 418-7944

FCC Forms: (800) 418-3676 (outside Washington, DC), (202) 418-3676 (in the Washington Area), <http://www.fcc.gov/formpage.html>

FCC Internet Sites:

<http://www.fcc.gov>  
<http://wireless.fcc.gov/auctions>  
<http://wireless.fcc.gov/uls>

## II. Short-Form (FCC Form 175) Application Requirements

39. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 49 Procedures Public Notice*. The short-form application seeks the applicant's name and address; legal classification; status; bidding credit eligibility; identification of the license(s) sought; and the authorized bidders and contact persons. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license and, as discussed in section II.E (Provisions Regarding Defaulters and Former Defaulters), that they are not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.

### A. License Selection

40. In Auction No. 49, Form 175 will include a mechanism that allows an applicant to create customized lists of licenses. The applicant will make selections for one or more of the filter criteria and the system will produce a list of licenses satisfying the specified criteria. The applicant may apply for all the licenses in the customized list (by using the "Save all filtered licenses" option); select and save individual licenses separately from the list; or

create a second customized list without selecting any of the licenses from the first list. Applicants also will be able to select licenses from one customized list and then create other customized lists to select additional licenses.

### B. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

41. All applicants must comply with the uniform part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to file an "Exhibit A" providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

### C. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

42. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. As discussed, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue discussions with applicants for the same geographic license area(s) after the deadline. Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an "Exhibit B" to the FCC Form 175.

43. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with