

#### F. Remote Electronic Bidding

92. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available, and the FCC Wide Area Network will be available as well. Qualified bidders are permitted to bid telephonically or electronically, *i.e.*, over the Internet or the FCC's Wide Area Network. In either case, *each authorized bidder* must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 49. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175.

93. Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

#### G. Mock Auction

94. All qualified bidders will be eligible to participate in a mock auction on Thursday, May 22, 2003. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

#### IV. Auction Event

95. The first round of bidding for Auction No. 49 will begin on Wednesday, May 28, 2003. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

##### A. Auction Structure

##### i. Simultaneous Multiple Round Auction

96. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, we

proposed to award all licenses in Auction No. 49 in a simultaneous multiple round auction. Aloha and Cavalier agree with the Bureau's proposal. We conclude that it is operationally feasible and appropriate to auction the licenses in the Lower 700 MHz band through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

##### ii. Maximum Eligibility and Activity Rules

97. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder. One commenter, Banks, requests that the Bureau modify, or create an exception, to this procedure in conjunction with adopting new procedures that would apply when a high bidder withdraws its bid during the course of the auction. Specifically, Banks suggests that in Auction No. 49, when a bidder withdraws its standing high bid, the next-highest bidder should be offered the licenses at its last bid amount, regardless of whether the next-highest bidder has any bidding eligibility available or is even still in the auction. In support of its proposal, Banks claims that adoption of this procedure will ensure that the party that values the license most highly wins the license. As the Bureau explains, it declines to adopt Banks' proposal because it would undermine the efficacy of the Bureau's activity and eligibility rules, thereby potentially decreasing the likelihood that the license is awarded to the bidder who values it most highly.

98. The Commission's rules do not provide for the procedure suggested by Banks. Pursuant to § 1.2109(b) of the Commission's rules, however, the Bureau retains the discretion to offer licenses to the next-highest bidder if a winning bidder withdraws or defaults "after the Commission has declared competitive bidding closed." Although the Bureau has the discretion to award licenses to the next-highest bidder in such cases, the Commission has consistently indicated, "the best course is to re-auction the license." The Commission has also recognized that the circumstances for which a next-highest offer would be appropriate are narrow. Further, the Commission has

observed that re-offering a defaulted license to the next highest bidder "may not ensure that the license will be offered to the bidder who values it most highly. In particular, as the license is offered to bidders at that next highest bids, other parties can argue that they would pay more for the license if given the opportunity." Thus, even where the rules provide for a procedure similar to the one suggested by Banks, it is generally disfavored.

99. Perhaps more significantly, Banks's proposal also implicates the activity and eligibility rules that apply to the conduct of the Commission's simultaneous multiple round auctions. A bidder's eligibility at the start of an auction is based upon the upfront payment amount that is converted into bidding units, using an auction-specific dollar to bidding unit ratio. Through the upfront payment, the applicant may purchase as many bidding units as it desires, but it must have sufficient bidding units to be eligible to bid on at least one of the licenses that it selects on the FCC Form 175 ("short-form application"). The activity rules, in turn, require bidder participation throughout the auction. Each bidder must have bidding activity in each round that accounts for a specified fraction of the bidder's current eligibility, as measured in bidding units. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

100. The activity and eligibility rules serve several important functions that are necessary to an efficient auction process. The auction activity and eligibility rules encourage bidders to make early bids in the auction, as opposed to waiting until later rounds to participate. Prompt and early participation by a bidder in the auction reveals useful information to other bidders about its demand and valuations for licenses. This transparent process allows bidders to modify their strategies based on current prices. The activity and eligibility rules also help maintain the pace of the auction, which reduces costs to bidders and the Commission. By promoting an efficient auction process, these rules increase the likelihood that the winning bidder will be the party that most highly values the license. By circumventing the activity and eligibility rules, Banks' proposal to restore eligibility would undermine this efficiency.

101. Furthermore, in contrast with one of the basic principles of our auction design, Banks' proposal would permit the withdrawal of one bidder to directly affect the auction outcome for another bidder by means other than