

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 Bureau, 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 Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within its discretion, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

### B. Bidding Procedures

#### i. Round Structure

121. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

122. 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 Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

#### ii. Reserve Price or Minimum Opening Bid

123. *Background.* The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any

other relevant factors that could have an impact on the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

124. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 49 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 49, the Bureau proposed the following license-by-license formula for calculating minimum opening bids:

$\$0.01 * \text{MHz} * \text{License Area Population}$  with a minimum of \$1,000 per license.

125. In the alternative, the Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

126. Two commenters allege that the minimum opening bids are too high and ask that the Bureau revise the proposed formula to reduce the minimum opening bids. Neither commenter proposes a specific reduction to the minimum opening bids nor a specific change to the formula used to compute the minimum opening bid. Further, the commenters provide no evidence that the proposed minimum opening bids are too high.

127. Following consideration of comments received, the Bureau adopts its proposed minimum opening bids for Auction No. 49. The Bureau notes that the minimum opening bids adopted here are approximately 60% less than those used in Auction No. 44. Based on this reduction and other considerations, the Bureau believes the minimum opening bids are well below the levels of the likely winning bids, and are not so high as to discourage competition. Thus, the Bureau is not persuaded that the proposed minimum opening bids are unreasonable.

128. The minimum opening bids adopted for Auction No. 49 are reducible at the discretion of the Bureau. The Bureau emphasizes, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any requests to reduce the minimum opening bid on specific licenses.

129. The specific minimum opening bids for each license available in Auction No. 49 are set forth in

Attachment A of the *Auction No. 49 Procedures Public Notice*.

#### iii. Minimum Acceptable Bids and Bid Increments

130. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed to use a smoothing methodology to calculate minimum acceptable bids. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum percentage based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity on a license, decreasing the time it takes for licenses receiving many bids to reach their final prices. The formula used to calculate this increment is included as Attachment F of the *Auction No. 49 Procedures Public Notice*. The Bureau further proposed to retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate. Aloha and Cavalier support the Bureau's position concerning minimum acceptable bids and bid increments.

131. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Automated Auction System will list the nine bid amounts for each license.

132. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described in Attachment F of the *Auction No. 49 Procedures Public Notice*. The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment*—*i.e.*,  $\text{bid increment} = (\text{minimum acceptable bid}) - (\text{standing high bid})$ . The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, *etc.*).

133. At the start of the auction and until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Corresponding additional bid amounts will be calculated using bid increments defined as the difference between the minimum opening bid times one plus the percentage increment, rounded as described in