

iii. Activity Rule Waivers and Reducing Eligibility

41. For Auction No. 51, the Bureau proposes that each bidder be provided with five activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's eligibility activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license or package. Activity rule waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

42. The Automated Auction System assumes that bidders with insufficient eligibility activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding round in which a bidder's eligibility activity is below the activity requirement unless: (i) The bidder has no activity rule waivers remaining; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. **Note:** If a bidder has no waivers remaining and does not satisfy the activity requirement, its current eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction.

43. A bidder with insufficient eligibility activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the "reduce eligibility" function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in the previous section. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

44. The activity rule waivers described are automatic waivers. Under the Bureau's SMR auction design, bidders can submit automatic or proactive waivers. Unlike automatic waivers, proactive waivers keep the auction open absent other bidding activity. The Bureau proposes not to allow bidders to submit proactive waivers in the context of package

bidding for Auction No. 51. As part of the package bidding design for Auction No. 51 the Bureau is proposing a two-round simultaneous stopping rule, in which the bidding on all licenses remains open until the second consecutive round in which no new bids are placed. After the second consecutive such round, bidding closes simultaneously on all licenses. The two-round stopping rule affords bidders some additional time to consider their current status, and eliminates the need for bidders to use a proactive activity rule waiver to prevent the auction from closing in the current round. The Bureau seeks comment on this proposal.

D. Information Relating to Auction Delay, Suspension, or Cancellation

45. For Auction No. 51, the Bureau proposes that, by public notice or by announcement during the auction, it may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient 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. The Bureau seeks comment on this proposal.

IV. Bidding Procedures

A. Round Structure

46. 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.

47. 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. The package bidding format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will also be included in a subsequent public notice.

48. The Bureau 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. The Bureau seeks comment on this proposal.

B. Reserve Price or Minimum Opening Bid

49. The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid when FCC licenses are subject to auction, unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission has 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.

50. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

51. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 51. The Bureau believes a minimum opening bid, which has been used in other auctions, is an effective bidding tool.

52. Specifically, for Auction No. 51, the Commission proposes the following license-by-license formula for calculating minimum opening bids:

$$\$0.00001 * \text{kHz} * \text{License Area Population, rounded.}$$

53. For a package, the Bureau proposes to calculate the minimum opening bid by adding together the minimum opening bids of the individual licenses that make up the package. The Bureau lists the proposed minimum opening bids for all licenses in Attachment A of the *Auction No. 51 Comment Public Notice*. The Bureau seeks comment on this proposal.

C. Packages

54. The Bureau proposes that, in addition to bidding on individual