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## I. General Information

1. By the *Auction No. 54 Comment Public Notice*, the Media Bureau ("MB") and the Wireless Telecommunications Bureau ("WTB") (collectively, the "Bureaus") announce the auction of construction permits for one full power television (TV), two low power television (LPTV), and four FM stations (Auction No. 54) scheduled to commence on July 23, 2003. A list of the locations of these stations is included as Attachment A of the *Auction No. 54 Comment Public Notice*. These new broadcast stations are the subject of pending, mutually exclusive applications for construction permits for the referenced broadcast services, for which the Commission has not approved a settlement agreement that obviates the need for an auction. Pursuant to the *Broadcast First Report and Order*, 63 FR 48615 (September 11, 1998), participation in Auction No. 54 will be limited to those applicants identified in Attachment A of the *Auction No. 54 Comment Public Notice*. Applicants will be eligible to bid on only those construction permits selected on their previously filed FCC Form 301 or 346.

2. Attachment A of the *Auction No. 54 Comment Public Notice* sets forth all mutually exclusive applicant groups ("MX Groups") on a service-by-service basis, accompanied by their respective minimum opening bids and upfront payments. All MX Groups identified in Attachment A of the *Auction No. 54 Comment Public Notice* have been subject to competition through the opening and closing of the relevant period for filing competing applications, either through two-step cut-off list procedures or through an application filing window. All applications within an identified MX Group are directly mutually exclusive with one another, and therefore a single construction permit will be auctioned for each MX Group identified in Attachment A of the *Auction No. 54 Comment Public Notice*.

3. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed \* \* \* before issuance of bidding rules, to permit notice and comment on proposed auction procedures \* \* \*." The Bureaus therefore seek comment on the

following issues relating to Auction No. 54.

## II. Auction Structure

### A. Simultaneous Multiple Round (SMR) Auction Design

4. The Bureaus propose to award all construction permits included in Auction No. 54 in a simultaneous multiple round auction. This methodology offers every construction permit for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureaus seek comment on this proposal.

### B. Upfront Payments and Initial Maximum Eligibility

5. The Bureaus have delegated authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as the efficiency of the auction and the value of similar spectrum. The upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on permits. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 54, the Bureaus propose to make the upfront payments equal to the minimum opening bids, which, as described in section III.B, are established based on various factors related to the efficiency of the auction and the potential value of the spectrum. The specific upfront payment for each construction permit is set forth in Attachment A of the *Auction No. 54 Comment Public Notice*. The Bureaus seek comment on this proposal.

6. The Bureaus further propose that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids. This limit is a bidder's "maximum initial eligibility." Each construction permit is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 54 Comment Public Notice*, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder may place bids on multiple construction permits, if those construction permits were selected on its previously filed FCC Form 301 or 346, as long as the total number of bidding units associated with those construction permits does not exceed the bidder's eligibility. Eligibility cannot be increased during the auction. In

order to bid on a construction permit, qualified bidders must have an eligibility level that meets the number of bidding units assigned to that permit. Thus, in calculating its upfront payment amount, an applicant should determine the maximum number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Bureaus seek comment on this proposal.

### C. Activity Rules

7. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their current bidding eligibility during each round of the auction rather than waiting until the end to participate.

8. The Bureaus propose a single stage auction with the following activity requirement: In each round of the auction, a bidder desiring to maintain its eligibility to participate in the auction is required to be active on one hundred (100) percent of its bidding eligibility. A bidder's activity will be the sum of the bidding units associated with the construction permit upon which it places a bid during the current round, or the construction permit upon which it is the standing high bidder. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's bidding eligibility, possibly eliminating it from the auction. The Bureaus seek comment on this proposal.

### D. Activity Rule Waivers and Reducing Eligibility

9. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's 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 construction permit. Activity waivers can be either proactive or automatic and 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.

**Note:** Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

10. The FCC Automated Auction System assumes that bidders with insufficient 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