

round in which a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers remaining; or (ii) bidders eligible to bid on more than one construction permit override the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder that is eligible to bid on only one construction permit has no activity rule waivers available, the bidder's eligibility will be reduced, eliminating it from the auction. If a bidder that is eligible to bid on more than one construction permit has no waivers remaining and does not satisfy the required activity level, its current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

11. A bidder that is eligible to bid on more than one construction permit and has insufficient 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. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

12. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

13. The Bureaus propose that each bidder in Auction No. 54 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction. The Bureaus seek comment on this proposal.

#### *E. Information Relating to Auction Delay, Suspension, or Cancellation*

14. For Auction No. 54, the Bureaus propose 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 Bureaus, in their 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 Bureaus to delay or suspend the auction. The Bureaus emphasize 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 Bureaus seek comment on this proposal.

### **III. Bidding Procedures**

#### *A. Round Structure*

15. The Commission will conduct Auction No. 54 over the Internet. Telephonic Bidding will also be available, and the FCC Wide Area Network will be available as well. The telephone number through which the backup FCC Wide Area Network may be accessed will be announced in a later public notice. Full information regarding how to establish such a connection will be provided in the public notice announcing details of auction procedures.

16. 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 simultaneous multiple round 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 the qualified bidders public notice.

17. The Bureaus have the 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 Bureaus 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 Bureaus seek comment on this proposal.

#### *B. Reserve Price or Minimum Opening Bid*

18. 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 or construction permits are subject to auction, unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. 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.

19. In light of the Balanced Budget Act's requirements, the Bureaus propose to establish minimum opening bids for Auction No. 54. For Auction No. 54, the proposed minimum opening bid prices were determined by taking into account various factors related to the efficiency of the auction and the potential value of the spectrum, including the type of service, proposed population coverage, market size, industry cash flow data and recent broadcast transactions. The specific minimum opening bid for each construction permit available in Auction No. 54 is set forth in Attachment A of the *Auction No. 54 Comment Public Notice*. Comment is sought on this proposal.

20. If commenters believe that these minimum opening bids will result in unsold construction permits, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

#### *C. Minimum Acceptable Bids and Bid Increments*

21. In each round, eligible bidders will be able to place bids on a given construction permit in any of nine different amounts. The FCC Automated Auction System interface will list the nine acceptable bid amounts for each construction permit. Until a bid has been placed on a construction permit, the minimum acceptable bid for that permit will be equal to its minimum opening bid. In the rounds after an acceptable bid is placed on a construction permit, the minimum acceptable bid for that permit will be equal to the standing high bid plus the bid increment.

22. Once there is a standing high bid on the construction permit, the FCC Automated Auction System will