

the same or overlapping geographic license areas. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Applicants for licenses in any of the same or overlapping geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants and conveys information concerning the substance of bids or bidding strategies between the applicants he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.

7. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering the same geographic areas. Note that Auction No. 51 applicants and Auction No. 50 applicants for licenses in the same or overlapping geographic license areas will not be able to take advantage of these rule provisions, even though the licenses are not completely co-extensive. For example, assume that one applicant applies for several Major Trading Area ("MTA") licenses in its Auction No. 50 FCC Form 175 and that a second applicant applies for a regional license in its Auction No. 51 FCC Form 175. If the first applicant selects licenses for MTAs that are within the region covered by the regional license selected by the second applicant, the two parties will have applied for licenses covering the same geographic areas. Consequently, unlike applicants who have applied for licenses that do not cover the same geographic areas, these two applicants will not be permitted to form a consortium or bid jointly for licenses after they file FCC Form 175. However, all applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their

Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for licenses covering any of the same geographic areas. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with section 1.2105(c).

8. In addition, section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, sections 1.65 and 1.2105 require an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.

9. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment G of the *Auction No. 51 Procedures Public Notice*.

iii. Due Diligence

10. Potential bidders seeking licenses for regions that are in the border area of Canada or Mexico will be subject to the terms of the coordination arrangements/protocols currently in effect with those respective countries.

11. Potential bidders also should be aware that certain applications (including those for modification), petitions for rulemaking, requests for special temporary authority ("STA") waiver requests, petitions to deny, petitions for reconsideration, and applications for review may be pending before the Commission and relate to particular applicants or incumbent licensees. In addition, certain judicial proceedings that may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 51 may be commenced, may be pending, or may be subject to further review. We note that resolution of these matters could have an impact on the availability of spectrum in Auction No. 51. Some of these matters (whether before the Commission or the courts) may not be resolved by the time of the auction.

12. Potential bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 51.

13. Potential bidders may obtain information about licenses available in Auction No. 51 through the Bureau's licensing databases on the World Wide Web at <http://wireless.fcc.gov/uls>. Potential bidders should direct questions regarding the search capabilities to the FCC Technical Support hotline at (202) 414-1250 (voice) or (202) 414-1255 (TTY), or via e-mail at auctech@fcc.gov. The hotline is available to assist with questions Monday through Friday, from 8 a.m. to 6 p.m. ET. In order to provide better service to the public, *all calls to the hotline are recorded*. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the region for which they plan to bid.

iv. Bidder Alerts

14. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

15. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due