

round is equal to either its eligibility in the previous round (bidder met the activity requirement) or five-thirds of its eligibility activity in the previous round (bidder did not meet the activity requirement), whichever is less:

$$\text{Eligibility (t)} = \text{Min} (\text{Eligibility (t-1)}, \frac{5}{3} * \text{Eligibility Activity (t-1)})$$

78. Activity rule waivers provide an exception to this rule and are discussed in the next section, "Activity Rule Waivers and Reducing Eligibility."

79. In addition, the Bureau proposed to retain the discretion to increase to eighty percent (four-fifths) the proportion of bidding units on which bidders must be active to retain their current eligibility. Any such change will be announced to bidders prior to the beginning of the round in which the change takes effect. For a bidder that failed to meet an eighty percent activity requirement in a given round, the Automated Auction System would reduce the bidder's eligibility for the next round to five-fourths times its eligibility activity in the current round.

Caution: If the Bureau exercises its discretion to increase the activity requirement to eighty percent, bidders must carefully check their current activity during the bidding period of the first round following the change. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity after an increase in the activity requirement. Bidders may check their activity against the required activity level by using the bidding system's bidding module.

80. The Bureau received no comments on these proposals. Because employing an activity rule has proven successful in maintaining proper pace in previous auctions, the Bureau adopts its proposal for Auction No. 51.

#### iv. Activity Rule Waivers and Reducing Eligibility

81. Each bidder will be provided five activity rule waivers that may be used in any round during the course of the auction. 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 level. An activity rule waiver applies to an entire round of bidding and not to a particular license or package.

82. The FCC 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 round where 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. 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.

83. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round 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 "Activity Rule" (see section IV.A.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

84. Finally, the Bureau adopts its proposal not to permit bidders to submit an activity rule waiver proactively as a means to keep the auction open absent bidding activity.

#### v. Auction Stopping Rules

85. For Auction No. 51, the Bureau proposed to employ a two-round simultaneous stopping rule; that is, the auction would close after two consecutive rounds with no new bids. The Bureau also proposed that, for purposes of the stopping rule, last and best bids would be considered new bids (*i.e.*, would keep the auction open) but renewed bids would not.

86. In addition, the Bureau proposed that it reserve the right to declare that the auction will end after a designated number of additional rounds ("special stopping rule"). The Bureau proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the activity requirement (where bidders will be required to maintain a higher level of bidding activity), increasing the number of rounds per day, and/or adjusting the minimum acceptable bids and bid increments for the licenses.

87. The Bureau received no comment on this issue. The Bureau adopts the proposals. Auction No. 51 will begin under the two-round simultaneous

stopping rule, and the Bureau will retain the discretion to invoke the special stopping rule.

#### vi. Auction Delay, Suspension, or Cancellation

88. Public notice or by announcement during the auction, the Bureau 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 conduct of competitive bidding. Because this approach has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed auction cancellation rules. 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.

#### B. Bidding Procedures

##### i. Round Structure

89. 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.

90. 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. Packages

91. The Bureau proposed that, in addition to bidding on individual licenses, bidders be permitted to create and bid on up to twelve different packages of their own choosing during the course of the auction. A bid on an individual license does not count as a bid on a package; packages consist of two or more licenses. Bidders will not be required to identify or create their packages before the start of the auction, but may create their packages as the auction progresses. A bidder may modify or delete a package it has created up until the point where it has bid on the package and the round has closed. If the bidder submits a bid on a package and subsequently removes the bid during the same round, the bidder has