

the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity.

10. Applicants for licenses in any of the same 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. 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.

11. 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. In Auction No. 53, for example, the rule will apply to any applicants that apply for the same DMA-based service area. In addition, applicants that apply to bid for all markets will be precluded from communicating with all other applicants until after the down payment deadline. 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 § 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 § 1.2105(c).

12. In addition, § 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, §§ 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.

13. 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. 53 Procedures Public Notice*.

#### iii. Interference Protection

14. Among other licensing and technical rules, MVDDS licensees must comply with the interference protection and coordination requirements set forth in §§ 101.105, 101.1421, and 101.1440 of the Commission's rules. Generally, §§ 101.105, 101.1421, and 101.1440 establish standards for protection of co-primary NGSO FSS earth stations, incumbent and adjacent area licensees and co-primary DBS earth stations. MVDDS shall be licensed on a non-harmful interference co-primary basis to existing DBS operations and on a co-primary basis with NGSO FSS stations in this band. MVDDS licensees must also protect and/or develop sharing agreements with neighboring licensees.

#### a. Incumbent Licensees

15. Terrestrial private operational fixed point-to-point stations in the 12.2–12.7 GHz band which were licensed prior to MVDDS are incumbent point-to-point stations. However, only those stations licensed as public safety must be protected from harmful interference caused by later MVDDS entrants in the 12.2–12.7 GHz band. MVDDS operators have the responsibility of resolving any harmful interference problems that their operations may cause to these public safety incumbent point-to-point operations in the 12.2–12.7 GHz band. To aid potential bidders, a list of public safety incumbents in this band can be found at Appendix I to the MVDDS *Second Report and Order*.

#### b. Canadian and Mexican Border Regions

16. MVDDS systems in the United States within 56 km (35 miles) of the Canadian and Mexican border will be granted conditional licenses, until final international agreements are approved. MVDDS systems may not cause harmful interference to stations in Canada or Mexico. No stations are allowed within 5 miles of the borders.

#### c. Quiet Zone

17. MVDDS stations must protect the radio quiet zones. Stations are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating.

#### iv. Due Diligence

18. Potential applicants 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. 53.

19. Potential applicants 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. 53, may be commenced, or 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. 53. In addition, although the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

20. In addition, potential applicants may research the licensing database for the Wireless Telecommunications Bureau on the Internet in order to determine which frequencies are already licensed to incumbent licensees. 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