

public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>. Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554 or may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. When ordering documents from Qualex, please provide the appropriate FCC number (for example, FCC 99-98 for the *Paging Third Report and Order*).

ii. Prohibition of Collusion

6. To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Bidders competing for licenses in 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 bidders 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 in Auction No. 48, applicants for licenses in overlapping EAs and MEAs 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 lower paging bands licenses, *i.e.*, licenses covering EAs, in its Auction No. 48 FCC Form 175 and that a second applicant applies for licenses in the upper paging bands, *i.e.*, licenses covering MEAs, in its Auction No. 48 FCC Form 175. If the first applicant selects licenses for EAs that are within MEAs covered by licenses 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 FCC Form 175, as long as they disclose the existence of the agreement(s) in their FCC 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 the same geographic areas. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

8. 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.

9. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment F of the *Auction No. 48 Procedures Public Notice*.

iii. Incumbent Licensees

10. Incumbent (non-geographic) paging licensees operating under their existing authorizations are entitled to full protection from co-channel interference. Geographic area licensees are likewise afforded co-channel interference protection from incumbent licensees. Adjacent geographic area licensees are obligated to resolve possible interference concerns of adjacent geographic area licensees by negotiating a mutually acceptable agreement with the neighboring geographic licensee. Incumbency issues are further discussed.

iv. Due Diligence

11. Potential bidders are reminded that there are a number of incumbent licensees already licensed and operating on frequencies that will be subject to the upcoming auction. Geographic area licensees in accordance with the Commission's rules must protect such incumbents from harmful interference. See 47 CFR 22.503(i). These limitations may restrict the ability of such geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas.

12. In addition, potential bidders seeking licenses for geographic areas adjacent to the Canadian and Mexican border should be aware that the use of some or all of the channels they acquire in the auction could be restricted as a result of current or future agreements with Canada or Mexico. Licensees on the lower paging channels must submit a Form 601 to obtain authorization to operate stations north of Line A or east of Line C because these channels are subject to the *Above 30 Megacycles per Second Agreement* with Industry Canada. Although the upper paging channels do not require coordination with Canada, the *U.S.-Canada Interim Coordination Considerations for the Band 929-932 MHz, as amended*, assigns specific 929 and 931 MHz frequencies to the United States for licensing along certain longitudes above Line A, and assigns other specific 929 and 931 MHz frequencies to Canada for licensing along certain longitudes along the U.S.-Canada border. In addition, the 929 and 931 MHz frequencies assigned to Canada are unavailable for use by U.S. licensees above Line A as set out in the agreement. Also, licensees in some EAs and MEAs may be required to protect quiet zones.

13. Potential bidders should also be aware that certain applications (including those for modification), petitions for rulemaking, requests for