

### *E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## **II. Background**

### *A. What Action is the Agency Taking?*

The Agency has issued REDs for the pesticide active ingredient listed in this document. Under FIFRA, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical listed in this document is substantially complete, and the pesticide's risks has been mitigated so that it will not pose unreasonable risks to people or the environment when used according to its approved labeling. In addition, EPA is reevaluating existing pesticides and reassessing tolerances under the Food Quality Protection Act (FQPA) of 1996. The pesticide included in this notice also has been found to meet the FQPA safety standard.

All registrants of pesticide products containing the active ingredient listed in this document have been sent the appropriate Data-Call-In, and must respond to labeling requirements and product-specific data requirements (if applicable) within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely

reregistration decisions and to involve the public. Therefore, EPA is issuing the RED with a 60-day comment period. Although the 60-day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. After the comment period the Agency will write a response to comments memo, and will revise the RED as appropriate.

### *B. What is the Agency's Authority for Taking this Action?*

The legal authority for these REDs falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product-specific data on individual end-use products, and either reregistering products or taking "other appropriate regulatory action."

### **List of Subjects**

Environmental protection, Chemicals, Pesticides and pests.

Dated: November 16, 2004.

### **Debra Edwards,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 04-26082 Filed 11-24-04; 8:45 am]

BILLING CODE 6560-50-S

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## **FEDERAL COMMUNICATIONS COMMISSION**

[Report No. AUC-04-59-A; (Auction No. 59); DA 04-3198]

### **Multiple Address Systems Spectrum Auction; Reserve Prices or Minimum Opening Bids and Other Auction Procedures**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of 4,226 Multiple Address Systems (MAS) licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands scheduled to commence on April 26, 2005 (Auction No. 59). This document also seeks comment on reserve prices or minimum opening bids and other auction procedures for Auction No. 59.

**DATES:** Comments are due on or before December 2, 2004, and reply comments are due on or before December 9, 2004.

**ADDRESSES:** Comments and reply comments must be sent by electronic mail to the following address: [auction59@fcc.gov](mailto:auction59@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For legal questions: Howard Davenport, Auctions and Spectrum Access Division (202) 418-0660. For general auction questions: Roy Knowles or Barbara Sibert (717) 338-2888. For service rule questions, contact the *Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau*, as follows: John Evanoff, (202) 418-0680; or Joan Howery, (717) 338-2646.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice released on November 15, 2004. The complete text of the *Auction No. 59 Comment Public Notice*, including attachments and of related Commission documents is 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. The *Auction No. 59 Comment Public Notice* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com> When ordering documents from BCPI, please provide the appropriate FCC document number (for example, FCC 00-313 for the C/F Block Sixth Report and Order). The *Auction No. 59 Comment Public Notice* and related documents are also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/59/>.

### **I. General Information**

1. By the *Auction No. 59 Public Notice*, the Wireless Telecommunications Bureau ("Bureau") announces the auction of 4,226 Multiple Address Systems ("MAS") licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands to commence on April 26, 2005 (Auction No. 59). In Auction No. 59, licenses will be offered in each of the 176 geographic areas known as Economic Areas (EAs), where available. These geographic areas encompass the United States, Guam and the Northern Marianas Islands, Puerto Rico and the United States Virgin Islands, American Samoa, and the Gulf of Mexico. Due to the large number of licenses in Auction No. 59, the complete list of licenses available for this auction will be provided in electronic format

only, available as Attachment A of Auction No. 59 Comment Public Notice.

2. The following table contains the MAS block/frequency bands cross-reference list for Auction No. 59:

Block	Frequency bands* (MHz)	Total bandwidth**	Pairing	Geographic area type
AA	928.85625 / 959.85625	25 kHz	2 x 12.5 kHz	EA
AB	928.86875 / 959.86875	25 kHz	2 x 12.5 kHz	EA
AC	928.88125 / 959.88125	25 kHz	2 x 12.5 kHz	EA
AD	928.89375 / 959.89375	25 kHz	2 x 12.5 kHz	EA
AE	928.90625 / 959.90625	25 kHz	2 x 12.5 kHz	EA
AF	928.91875 / 959.91875	25 kHz	2 x 12.5 kHz	EA
AG	928.93125 / 959.93125	25 kHz	2 x 12.5 kHz	EA
AH	928.94375 / 959.94375	25 kHz	2 x 12.5 kHz	EA
AI	928.95625 / 959.95625	25 kHz	2 x 12.5 kHz	EA
AJ	928.96875 / 959.96875	25 kHz	2 x 12.5 kHz	EA
AK	928.98125 / 959.98125	25 kHz	2 x 12.5 kHz	EA
AL	928.99375 / 959.99375	25 kHz	2 x 12.5 kHz	EA
AM	932.00625 / 941.00625	25 kHz	2 x 12.5 kHz	EA
AN	932.01875 / 941.01875	25 kHz	2 x 12.5 kHz	EA
AO	932.03125 / 941.03125	25 kHz	2 x 12.5 kHz	EA
AP	932.04375 / 941.04375	25 kHz	2 x 12.5 kHz	EA
AQ	932.05625 / 941.05625	25 kHz	2 x 12.5 kHz	EA
AR	932.06875 / 941.06875	25 kHz	2 x 12.5 kHz	EA
AS	932.08125 / 941.08125	25 kHz	2 x 12.5 kHz	EA
AT	932.09375 / 941.09375	25 kHz	2 x 12.5 kHz	EA
AU	932.10625 / 941.10625	25 kHz	2 x 12.5 kHz	EA
AV	932.11875 / 941.11875	25 kHz	2 x 12.5 kHz	EA
AW	932.13125 / 941.13125	25 kHz	2 x 12.5 kHz	EA
AX	932.14375 / 941.14375	25 kHz	2 x 12.5 kHz	EA
AY	932.15625 / 941.15625	25 kHz	2 x 12.5 kHz	EA
AZ	932.16875 / 941.16875	25 kHz	2 x 12.5 kHz	EA
BA	932.18125 / 941.18125	25 kHz	2 x 12.5 kHz	EA
BB	932.19375 / 941.19375	25 kHz	2 x 12.5 kHz	EA

\* The individual frequencies listed in this chart are the center frequencies of each frequency pair in the block to be auctioned. See 47 CFR 101.147(b)(3), (4). Each block consists of two channels of equal bandwidth. For example, in Block AA, 928.85625 and 959.85625 are the center frequencies and each frequency pair is comprised of two 12.5 kHz wide channels. Therefore, the two channels in Block AA are 928.8500–928.8625 MHz and 959.8500–959.8625 MHz.

\*\* "Total Bandwidth" represents the total bandwidth for the block, which is the combination of each channel in the pair.

**Note:** For Auction No. 59, licenses are not available in every block listed in the above table in every market. The complete list of licenses available for Auction No. 59 will be provided in electronic format only, available as Attachment A to the Auction No. 59 Comment Public Notice.

3. The Communications Act requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed \* \* \* before issuance of bidding rules, to permit notice and comment on proposed auction procedures. \* \* \*" Consistent with the provisions of the Communications Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 59.

**II. Auction Structure**

**A. Simultaneous Multiple-Round Auction Design**

4. The Bureau proposes to award all licenses included in Auction No. 59 in a simultaneous multiple-round auction.

As described further below, this methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureau seeks comment on this proposal.

**B. Upfront Payments and Bidding Eligibility**

5. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area and the value of similar spectrum. As described further below, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 59, we propose to calculate upfront payments on a license-

by-license basis using the following formula:  
 $\$0.00000375 \text{ * kHz * License Area Population with a minimum of } \$1,000 \text{ per license.}$

6. Accordingly, in Attachment A of the Auction No. 59 Comment Public Notice we list all licenses included in Auction No. 59 and the proposed upfront payment for each license. Attachment A of the Auction No. 59 Comment Public Notice is available in electronic format. The Bureau seeks comment on this proposal.

7. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the maximum number of bidding units on which a bidder may place bids. This limit is a bidder's initial eligibility. Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the Auction No. 59 Comment Public Notice, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific

licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its current eligibility. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Bureau seeks comment on this proposal.

### C. Activity Rules

8. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their current bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

9. The Bureau proposes to divide the auction into two stages, each characterized by an increased activity requirement. The auction will start in Stage One. The Bureau proposes that the auction generally will advance from Stage One to Stage Two when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, the Bureau further proposes that it retains the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau seeks comment on these proposals.

10. For Auction No. 59, we propose the following activity requirements:

*Stage One:* In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

*Stage Two:* In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 95 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by twenty-nineteenths (20/19).

11. The Bureau seeks comment on these proposals. Commenters that believe these activity rules should be modified should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

### D. Activity Rule Waivers and Reducing Eligibility

12. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either proactive or automatic and are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

**Note:** Once a proactive waiver is submitted, that waiver cannot be unsubmitted, even if the round has not yet closed.

13. The FCC Automated Auction System assumes that bidders with insufficient 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 bidding period where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

**Note:** If a bidder 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.

14. A bidder with 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 as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

15. 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 or withdrawals 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 or withdrawals will not keep the auction open.

16. The Bureau proposes that each bidder in Auction No. 59 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth above. The Bureau seeks comment on this proposal.

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

17. For Auction No. 59, the Bureau proposes that, by 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, or administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of competitive bidding. 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. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

## III. Bidding Procedures

### A. Round Structure

18. The Commission will conduct Auction No. 59 over the Internet. Alternatively, telephonic bidding will also be available. The toll free telephone number through which telephonic bidding may be accessed will be announced in a later public notice. The FCC Wide Area Network will no longer be available as a contingency plan.

19. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. 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 be included in the same public notice.

20. The Bureau 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. The Bureau seeks comment on this proposal.

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

21. The Communications Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid when FCC licenses are subject to auction, unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

22. 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.

23. In light of the Communications Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 59. The Bureau believes a minimum opening bid, which has been used in other auctions, is an effective bidding tool.

24. Specifically, for Auction No. 59, the Commission proposes the following license-by-license formula for calculating minimum opening bids:

$\$0.00000375 * \text{kHz} * \text{License Area Population with a minimum of } \$1,000 \text{ per license.}$

25. The specific minimum opening bid for each license available in Auction No. 59 is set forth in Attachment A of *Auction No. 59 Comment Public Notice*. The Bureau seeks comment on this proposal.

26. If commenters believe that these minimum opening bids will result in substantial numbers of "unwon" licenses, 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. In establishing the minimum opening bids, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of these MAS licenses. The Bureau also seeks comment on whether, consistent with the Communications Act, the public interest would be served by having no minimum opening bid or reserve price.

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

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

28. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described below. The difference between the minimum acceptable bid and the standing high bid for each license will define the bid increment. The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two

times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

29. For Auction No. 59, the Bureau proposes to use a 10 percent bid increment. This means that the minimum acceptable bid for a license will be approximately 10 percent greater than the previous standing high bid received on the license. The minimum acceptable bid amount will be calculated by multiplying the standing high bid times one plus the increment percentage "*i.e.*, (standing high bid) \* (1.10). The Commission will round the result using our standard rounding procedures for minimum acceptable bid calculations: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

30. As stated above, until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described above, and the minimum opening bid. That is,  $I = (\text{minimum opening bid})(1 + N)\{\text{rounded}\} - (\text{minimum opening bid})$ . Therefore, when  $N$  equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

31. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

32. The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. The Bureau seeks comment on these proposals.

#### *D. High Bids*

33. At the end of a bidding round, a high bid for each license will be determined based on the highest gross bid amount received for the license. In the event of identical high bids on a license in a given round (*i.e.*, tied bids), we propose to use a random number generator to select a single high bid from among the tied bids. If the auction were

to end with no higher bids being placed for that license, the winning bidder would be the one that placed the selected high bid. However, the remaining bidders, as well as the high bidder, can submit higher bids in subsequent rounds. If any bids are received on the license in a subsequent round, the high bid again will be determined by the highest gross bid amount received for the license. The Bureau seeks comment on this proposal.

34. A high bid will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. A high bid from a previous round is sometimes referred to as a "standing high bid." Bidders are reminded that standing high bids count towards bidding activity.

#### *E. Information Regarding Bid Withdrawal and Bid Removal*

35. For Auction No. 59, the Bureau proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By removing selected bids in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

36. A high bidder may withdraw its standing high bids from previous rounds using the withdraw function in the bidding system. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions of the Commission rules. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

37. In the *Part 1 Third Report and Order*, 63 FR 770, January 7, 1998, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

38. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 59 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

#### *F. Stopping Rule*

39. The Bureau has discretion to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time. For Auction No. 59, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses.

40. Bidding will close simultaneously on all licenses after the first round in which no new bids, proactive waivers, or withdrawals are received. Thus, unless circumstances dictate otherwise, bidding will remain open on all licenses until bidding stops on every license.

41. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 59:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.

ii. Keep the auction open even if no new bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule,

therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) only for licenses on which the high bid increased in at least one of a specified preceding number of rounds.

42. The Bureau proposes to exercise these options only in certain circumstances, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Bureau seeks comment on these proposals.

#### **IV. Conclusion**

43. Comments are due on or before December 2, 2004, and reply comments are due on or before December 9, 2004. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureau requires that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: [auction59@fcc.gov](mailto:auction59@fcc.gov). The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 59. Comments and the name of the commenting party. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center, Room CY-B402, 445 12th Street, SW., Washington, DC 20554. In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

44. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain

summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

**Gary D. Michaels,**

*Deputy Chief, Auctions and Spectrum Access Division, WTB.*

[FR Doc. 04-26061 Filed 11-23-04; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL ELECTION COMMISSION

### Sunshine Act Notices

#### PREVIOUSLY ANNOUNCED DAY AND TIME:

Tuesday, November 16, 2004, 10 a.m. Meeting Closed to the Public. This meeting was cancelled.

**DATE AND TIME:** Tuesday, November 30, 2004 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

#### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. section 437g, section 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Thursday, December 2, 2004 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor).

**STATUS:** This meeting will be open to the public.

#### ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.  
*Draft Advisory Opinion 2004-40:* The Libertarian Party of Maryland by Joseph J. Miller, Treasurer.

Notice of Proposed Rulemaking on Party Donations to Tax-exempt Organizations.

Routine Administrative Matters.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Biersack, Press Officer, Telephone: (202) 694-1220.

**Mary W. Dove,**

*Secretary of the Commission.*

[FR Doc. 04-26199 Filed 11-22-04; 2:49 pm]

BILLING CODE 6715-01-M

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984.

Interested parties may obtain copies of agreements by contacting the Commission's Office of Agreements at 202-523-5793 or via e-mail at [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov). Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

**Agreement No.:** 011324-016.

**Title:** Transpacific Space Utilization Agreement.

**Parties:** American President Lines Ltd.; APL Co. Pte Ltd.; Evergreen Marine Corporation (Taiwan), Ltd.; Hanjin Shipping Co., Ltd.; Hapag-Lloyd Container Linie GmbH; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Limited; P&O Nedlloyd, Ltd.; P&O Nedlloyd B.V.; Westwood Shipping Lines; and Yangming Marine Transport Corp.

**Filing Party:** Wayne R. Rohde, Esq., Sher & Blackwell, 1850 M Street, NW., Suite 900, Washington, DC 20036.

**Synopsis:** The amendment deletes A.P. Moller-Maersk Sealand as a party to the agreement.

**Agreement No.:** 011852-014.

**Title:** Maritime Security Discussion Agreement.

**Parties:** China Shipping Container Lines, Co., Ltd.; CMA CGM, S.A.; COSCO Container Lines Company, Ltd.; Evergreen Marine Corp.; Hanjin Shipping Company, Ltd.; Hapag Lloyd Container Linie GmbH; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Limited; P&O Nedlloyd Limited; Yang Ming Marine Transport Corp.; Zim Integrated Shipping Services, Ltd.; Alabama State Port Authority; APM Terminals North America, Inc.; Ceres Terminals, Inc.; Cooper/T. Smith Stevedoring Co., Inc.; Global Terminal & Container Services, Inc.; Howland Hook Container Terminal, Inc.; Husky Terminal & Stevedoring, Inc.; International Shipping Agency; International Transportation Service, Inc.; Lambert's Point Docks Inc.; Long Beach Container Terminal, Inc.; Maersk Pacific Ltd.; Maher Terminals, Inc.; Marine Terminals Corp.; Maryland Port Administration; Massachusetts Port Authority; Metropolitan Stevedore Co.; P&O Ports North American, Inc.; Port of

Tacoma; South Carolina State Ports Authority; Stevedoring Services of America, Inc.; Trans Bay Container Terminal, Inc.; TraPac Terminals; Universal Maritime Service Corp.; Virginia International Terminals; and Yusen Terminals, Inc.

**Filing Parties:** Carol N. Lambos, Lambos & Junge, 29 Broadway, 9th Floor, New York, NY 10006 and Charles T. Carroll, Jr., Carroll & Froelich, PLLC, 2011 Pennsylvania Avenue, NW., Suite 301, Washington, DC 20006.

**Synopsis:** The amendment deletes Eagle Marine Services, Ltd. as a member to the agreement.

Dated: November 19, 2004.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 04-26064 Filed 11-23-04; 8:45 am]

BILLING CODE 6730-01-P

## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Westcove Investments, Inc. dba Cargo Link International, 1810 Borrego Drive, West Covina, CA 91791.

Officers: Rey Nicolas Dumandan, President/CEO (Qualifying Individual), Maria Lourdes A. Timbol, Secretary.

Seagold (USA) Inc., 219 Stuyvesant Avenue, Lyndhurst, NY 07071.

Officer: Tariq Mahmood, President (Qualifying Individual).

Trans Freight (USA) Inc., 317 W. Main Street, Unit 419, Alhambra, CA 91801.

Officer: Sammy Jing Huang, President (Qualifying Individual).

Nelcon Cargo Corporation, 179 Morningside Drive, Miami Springs, FL 33166. Officers: Nydia Bermudez, President (Qualifying Individual), Estela Perez, Vice President.