

Database Managers must update the LRS to reflect the correct licensee name for call signs and associated links.³⁹

Federal Communications Commission.

John J. Schauble,

Deputy Chief, Broadband Division.

Attachment

Licensees may contact any of the Database Managers for more information about registering a link on the Link Registration System (LRS). Please contact one of the following Database Managers (listed in alphabetical order):

- *Comsearch*—Denise Finney, Comsearch, 19700 Janelia Farm Boulevard, Ashburn, VA 20147, (703) 726-5500, facsimile-(703) 726-5599, <http://www.comsearch.com>, <http://www.gigabitlink.com>; or

- *Frequency Finder*—Peter Moncure, Frequency Finder, Inc., 160 Sosebee Lane, Demorest, GA 30535, (706) 778-6811, facsimile-(706) 778-6812, <http://www.mmmRadioForms.com>; or

- *Micronet Communications*—Steve Knauber, Micronet Communications, Inc., 720 F Avenue, Suite 100, Plano, TX 75074, (972) 422-7200, facsimile-(972) 422-1900, micronet@micronetcommunications.com, <http://www.micronetcommunications.com>.

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FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-04-59-B; (Auction No. 59); DA 04-3985]

Multiple Address Systems Spectrum Auction; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of 4,226 Multiple Address Systems (MAS) licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 59 is scheduled to begin on April 26, 2005.

FOR FURTHER INFORMATION CONTACT: Auctions and Spectrum Access Division (WTB): For legal questions: Howard Davenport at (202) 418-0660. For general auction questions: Roy Knowles

or Barbara Sibert at (717) 338-2888. For service rules questions: Public Safety and Critical Infrastructure Division, WTB: Zenji Nakazawa or Stanley Wiggins at (202) 418-0680. For technical questions: Joan Donmoyer at (717) 338-2646. Media Contact: Lauren Patrich at (202) 418-7944.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 59 Procedures Public Notice* released on December 21, 2004. The complete text of the *Auction No. 59 Procedures Public Notice*, including attachments, as well as related Commission 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. The *Auction No. 59 Procedures 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>. The *Auction No. 59 Procedures 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

A. Introduction

1. The *Auction No. 59 Public Notice* announces the procedures and minimum opening bids for the upcoming auction of Multiple Address Systems (MAS) licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands, scheduled for April 26, 2005 (Auction No. 59). On November 15, 2004, in accordance with section 309(j)(4) of the Communications Act of 1934, as amended, the Bureau released a public notice seeking comment on reserve prices or minimum opening bids and the procedures to be used in Auction No. 59. The Bureau received one comment in response to the *Auction No. 59 Comment Public Notice*, 69 FR 68364, November 24, 2004.

i. Background of Proceeding

2. On January 19, 2000, the Commission released the *MAS Report and Order*, 65 FR 17445, April 3, 2000, which adopted rules to maximize the use of spectrum in the MAS service. Specifically, the Commission: (a) Designated the 928/952/956 MHz bands exclusively for private internal services, licensed on a first-come, first-served,

site-by-site basis; (b) designated the 928/959 MHz bands and twenty of the forty paired channels in the 932/941 MHz bands to be licensed on a geographic area basis; (c) reserved twenty of the forty channel pairs in the 932/941 MHz bands for public safety/Federal Government and private internal services, licensed on a first-come, first-served, site-by-site basis; (d) designated five of the twenty channels in the 932/941 MHz bands' set-aside exclusively for public safety/Federal Government services; (e) grandfathered existing operations on the MAS bands, while limiting expansion in the 928/959 MHz bands; (f) established service areas based on the Commission's and the Department of Commerce's definitions of Economic Areas (EAs); (g) established construction/coverage requirements for EA licensees; (h) introduced flexibility to the MAS technical rules; (i) adopted a flexible approach for defining the regulatory status of MAS licensees by allowing the licensee to indicate its regulatory status; (j) lifted the suspension on the acceptance of applications for the 928/952/956 MHz bands and the twenty channels in the 932/941 MHz bands designated for public safety/Federal Government and/or private internal services upon the release of the *MAS Report and Order*; and (k) adopted the part 1 competitive bidding rules for the MAS spectrum. On March 3, 2000, the Commission amended the text of the *MAS Report and Order* in an *Erratum to the MAS Report and Order*.

3. Subsequently, on May 29, 2001, the Commission released the *MAS Memorandum Opinion and Order*, 66 FR 35107, July 3, 2001, which addressed four petitions for reconsideration and/or clarification of the *MAS Report and Order*. The Commission granted two of the petitions, granted the third petition in part, and dismissed the fourth petition as moot. Additionally, the Commission, on its own motion, adopted minor changes to certain technical requirements in part 101 of the Commission's rules and modified the application freeze in certain MAS bands. A second *Erratum to the MAS Memorandum Opinion and Order* was released by the Commission on June 21, 2001.

4. On November 15, 2004, the Bureau released the *Auction No. 59 Comment Public Notice* announcing that Auction No. 59 will commence on April 26, 2005, setting forth a complete list of licenses for Auction No. 59, and seeking comment on reserve prices or minimum opening bids and other auction procedures.

³⁹ See, e.g., *Report and Order*, 18 FCC Rcd 23340 paragraph 49 (third-party entity serves as a clearinghouse and repository of site path information).

ii. Licenses To Be Auctioned

5. Auction No. 59 will offer 4,226 MAS licenses in the Fixed Microwave Services in the 928/959 and 932/941 MHz bands. 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. A complete list of the licenses available in Auction No. 59 for each market is provided in electronic

format only, available as "Attachment A" to the *Auction No. 59 Procedures Public Notice* at <http://wireless.fcc.gov/auctions/59/>.

6. The following table describes 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 × 12.5 kHz	EA
AB	928.86875/959.86875	25 kHz	2 × 12.5 kHz	EA
AC	928.88125/959.88125	25 kHz	2 × 12.5 kHz	EA
AD	928.89375/959.89375	25 kHz	2 × 12.5 kHz	EA
AE	928.90625/959.90625	25 kHz	2 × 12.5 kHz	EA
AF	928.91875/959.91875	25 kHz	2 × 12.5 kHz	EA
AG	928.93125/959.93125	25 kHz	2 × 12.5 kHz	EA
AH	928.94375/959.94375	25 kHz	2 × 12.5 kHz	EA
AI	928.95625/959.95625	25 kHz	2 × 12.5 kHz	EA
AJ	928.96875/959.96875	25 kHz	2 × 12.5 kHz	EA
AK	928.98125/959.98125	25 kHz	2 × 12.5 kHz	EA
AL	928.99375/959.99375	25 kHz	2 × 12.5 kHz	EA
AM	932.00625/941.00625	25 kHz	2 × 12.5 kHz	EA
AN	932.01875/941.01875	25 kHz	2 × 12.5 kHz	EA
AO	932.03125/941.03125	25 kHz	2 × 12.5 kHz	EA
AP	932.04375/941.04375	25 kHz	2 × 12.5 kHz	EA
AQ	932.05625/941.05625	25 kHz	2 × 12.5 kHz	EA
AR	932.06875/941.06875	25 kHz	2 × 12.5 kHz	EA
AS	932.08125/941.08125	25 kHz	2 × 12.5 kHz	EA
AT	932.09375/941.09375	25 kHz	2 × 12.5 kHz	EA
AU	932.10625/941.10625	25 kHz	2 × 12.5 kHz	EA
AV	932.11875/941.11875	25 kHz	2 × 12.5 kHz	EA
AW	932.13125/941.13125	25 kHz	2 × 12.5 kHz	EA
AX	932.14375/941.14375	25 kHz	2 × 12.5 kHz	EA
AY	932.15625/941.15625	25 kHz	2 × 12.5 kHz	EA
AZ	932.16875/941.16875	25 kHz	2 × 12.5 kHz	EA
BA	932.18125/941.18125	25 kHz	2 × 12.5 kHz	EA
BB	932.19375/941.19375	25 kHz	2 × 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 928.85000–928.86250 MHz and 959.85000–959.86250 MHz.

** This represents the total bandwidth for each block, which is the combination of the two channels in each pair.

Note: For Auction No. 59, licenses are not available in every block listed in the above table in every market.

B. Rules and Disclaimers

i. Relevant Authority

7. Prospective applicants must familiarize themselves thoroughly with the Commission's rules relating to the Multiple Address Systems (MAS), contained in 47 CFR parts 22 and 101, and those relating to application and auction procedures, contained in 47 CFR part 1. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, "terms") contained in the *Auction No. 59 Procedures Public Notice*; the *Auction No. 59 Comment Public Notice*; the *Part 1 Fifth Report and Order*, 65 FR 52401, August 29, 2000; the *MAS Notice of Proposed Rule Making*, 62 FR 11407, March 12, 1997; the *MAS Further Notice of Proposed*

Rule Making and Order; 64 FR 38617, July 19, 1999; the *MAS Report and Order*, the *Erratum to the MAS Report and Order*; the *MAS Memorandum Opinion and Order*; and the *Erratum to the MAS Memorandum Opinion and Order* (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees).

8. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission's rules and with all public notices pertaining to this auction.

ii. Prohibition of Collusion

9. To ensure the competitiveness of the auction process, § 1.2105(c) of the Commission's rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii) of the Commission's rules. Thus, applicants for any of the same geographic license areas must conscientiously avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bidding or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. *This prohibition applies to all applicants regardless of whether such applicants become*

qualified bidders or actually bid. For purposes of this prohibition, § 1.2105(c)(7)(i) of the Commission's rules defines applicant as including all controlling interests in the entity submitting a short-form application to participate in 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 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) of the Commission's rules, 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. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c) of the Commission's rules.

12. 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, § 1.65 of the Commission's rules requires auction applicants that engage in communications of bids or bidding strategies that result in a bidding agreement, arrangement or understanding not already identified on their short-form applications to promptly disclose any such agreement, arrangement or understanding to the Commission by amending their pending applications. In addition, § 1.2105(c)(6) of the Commission's rules requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing immediately but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under § 1.65 of the Commission's rules.

13. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process. Any applicant found to have violated the anti-collusion rule may be subject to sanctions, including forfeiture of its upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions. In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.

14. 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 F of the *Auction No. 59 Procedures Public Notice*.

iii. Interference Protection

15. Potential bidders are reminded that there are incumbent licensees operating on frequencies that will be subject to the upcoming auction. The holder of an EA authorization thus will be required to protect incumbents from harmful interference. Specifically, an EA authorization holder will be required to coordinate with the incumbent licensees by using the interference protection criteria in § 101.1333 of the Commission's rules. However, operational agreements are encouraged between the parties. Should an incumbent's license cancel automatically or otherwise be recovered by the Commission, the incumbent's frequencies will automatically revert to the applicable EA licensee without being subject to further competitive bidding.

iv. Due Diligence

16. 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 should perform their individual due diligence before proceeding as they would with any new business venture.

17. Applicants are reminded that there are a number of incumbent licensees already licensed and operating on frequencies that will be subject to the upcoming auction. Such incumbents must be protected from harmful interference by MAS Station geographic area licensees in accordance with the Commission's rules. These limitations may restrict the ability of such MAS geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. The Commission therefore cautions potential applicants in formulating their bidding strategies to investigate and consider the extent to which MAS frequencies are occupied by incumbents.

18. *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. 59.*

19. Applicants should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 59. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 59. Applicants are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

20. Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. We note that resolution of such matters could have an impact on the availability of spectrum for Auction No. 59. In addition, although the Commission may continue to act on various pending applications, informal objections petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

21. Applicants may obtain information about incumbent licenses that may have an effect on availability of licenses in Auction No. 59 through the Bureau's licensing databases on the World Wide Web at <http://wireless.fcc.gov/uls>. Applicants may query the database online and download a copy of their search results if desired. Detailed instructions on using License Search (including frequency searches and the GeoSearch capability) and downloading query results are available online by selecting the "?" button at the upper right-hand corner of the License Search screen. Applicants should direct questions regarding the search capabilities to the FCC ULS/Technical Support hotline at 1-877-480-3201 option 2.

22. 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. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant,

applicants may obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. 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. *Applicants are strongly encouraged to physically inspect any prospective transmitter sites located in, or near, the service area for which they plan to bid.*

23. In addition, licenses in EAs that border Canada may be subject to the Arrangement between the Federal Communications Commission and the National Telecommunications and Information Administration of the United States and Industry Canada concerning the use of the bands 932 to 935 MHz and 941 to 944 MHz along the United States-Canada border. Licenses in EAs that border Mexico may be subject to the Protocol Concerning the Allotment and Use of Channels in the 932-932.5 and 941-941.5 MHz bands for Fixed Point-to-Multipoint Services along the Common Border.

24. Licenses may, in some EAs, be required to protect quiet zones. Licenses in EAs that would affect quiet zones are subject to § 101.1329 of the Commission's rules.

v. Bidder Alerts

25. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 59 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) The Internal Revenue Service (IRS), Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), FCC, or other government agency has approved the investment; (b) the investment is not subject to State or federal securities

laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

26. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals regarding Auction No. 59 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

vi. National Environmental Policy Act Requirements

27. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility.

C. Auction Specifics

i. Auction Date

28. The auction will begin on Tuesday, April 26, 2005, as announced in the *Auction No. 59 Comment Public Notice*. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

29. Auction No. 59—Multiple Address Systems.

iii. Bidding Methodology

30. The bidding methodology for Auction No. 59 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

iv. Pre-Auction Dates and Deadlines

31. Listed are important dates associated with Auction No. 59:

Auction Seminar	February 23, 2005
Short-Form Application (FCC Form 175) Filing Window Opens	February 23, 2005; 12 p.m. ET
Short-Form Application (FCC Form 175) Filing Window Deadline	March 4, 2005; 6 p.m. ET
Upfront Payments (via wire transfer)	April 1, 2005; 6 p.m. ET

Mock Auction	April 21, 2005
Auction Begins	April 26, 2005

v. Requirements for Participation

32. Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6 p.m. ET, March 4, 2005.
- Submit a sufficient upfront payment and an FCC Remittance Advice

Form (FCC Form 159) by 6 p.m. ET, April 1, 2005.

- Comply with all provisions outlined in the *Auction No. 59 Public Notice*.

vi. Any Filings to Auction No. 59

33. An electronic copy of any filings that are submitted to the Commission

related to Auction No. 59, including filings made with the Commission's Office of the Secretary, should also be submitted by electronic mail to the following address: auction59@fcc.gov.

34. Following is a list of general contact information relating to Auction No. 59:

vii. General Contact Information

GENERAL AUCTION INFORMATION

General Auction Questions
Seminar Registration

AUCTION LEGAL INFORMATION

Auctions Rules, Policies, Regulations

LICENSING INFORMATION

Rules, Policies, Regulations

Licensing Issues

Due Diligence

Incumbency Issues

TECHNICAL SUPPORT

Electronic Filing

FCC Automated Auction System

PAYMENT INFORMATION

Wire Transfers

Refunds

TELEPHONIC BIDDING**FCC COPY CONTRACTOR**

Additional Copies of Commission Documents

PRESS INFORMATION**FCC FORMS****FCC INTERNET SITES**

FCC Auctions Hotline
(888) 225-5322, Press Option #2 or direct (717) 338-2888
Hours of Service: 8 a.m.-5:30 p.m. ET,
Monday through Friday
Auctions and Spectrum Access Division
Legal Branch (202) 418-0660
Public Safety and Critical Infrastructure Division
(202) 418-0680

FCC Auctions Technical Support Hotline
(202) 414-1250 or 1-877-480-3201, Press Option #9
(202) 414-1255 (TTY)
Hours of service: 8 a.m.-6 p.m. ET,
Monday through Friday
FCC Auctions Accounting Branch
(202) 418-0578
(202) 418-2843 (Fax)
Will be furnished only to qualified bidders
Best Copy and Printing, Inc.
445 12th Street, SW., Room CY-B402
Washington, DC 20554
(800) 378-3160
<http://www.bcpweb.com>

Lauren Patrich (202) 418-7944
(800) 418-3676 (outside Washington, DC)
(202) 418-3676 (in the Washington Area)
<http://www.fcc.gov/formpage.html>
<http://www.fcc.gov>
<http://wireless.fcc.gov/auctions>
<http://wireless.fcc.gov/uls>

II. Short-Form (FCC Form 175) Application Requirements

35. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 59 Procedures Public Notice*. 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.

A. License Selection

36. The Bureau has modified Form 175 for Auction No. 59. In Auction No. 59, Form 175 will include a mechanism that allows an applicant to filter the licenses by Market Number and Channel Block to create customized lists of licenses. The applicant will make selections for one or more of the filter criteria and the system will produce a

list of licenses satisfying the specified criteria. The applicant may apply for all the licenses in the customized list by using the "Save all filtered licenses" option; select and save individual licenses separately from the list; or create a second customized list without selecting any of the licenses from the first list. Applicants also will be able to select licenses from one customized list and then create a second customized list to select additional licenses.

B. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

37. All applicants must comply with the uniform part 1 of the Commission's rules ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants

will be required to file an "Exhibit A" providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

C. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

38. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements,

arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid.

39. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Eligibility

i. Bidding Credit Eligibility (FCC Form 175 Exhibit C)

40. A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.

41. In the *MAS Report and Order*, the Commission adopted bidding credits on a "tiered" basis for all small businesses participating in the auction of MAS spectrum Bidding credits are available to small and very small businesses, or consortia thereof, (as defined in 47 CFR 1.2110(c) and 101.1319). For Auction No. 59, bidding credits will be available to small business or consortia thereof, as follows:

- A bidder with attributed average annual gross revenues of not more than \$15 million for the preceding three years ("small business") will receive a 25 percent discount on its winning bids;
- A bidder with attributed average annual gross revenues of not more than \$3 million for the preceding three years ("very small business") will receive a 35 percent discount on its winning bids.

42. Small business bidding credits are not cumulative; a qualifying applicant receives the 25 percent or 35 percent bidding credit on its winning bid, but only one credit per license.

ii. Tribal Lands Bidding Credit

43. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit.

iii. Applicability of Part 1 Attribution Rules

44. *Controlling interest standard.* The Commission uses a "controlling interest" standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions. The Commission has recently modified its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes included exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met. The Commission also clarified that in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors will not be attributed to the applicant.

45. *Control.* The term "control" includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control.* *De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

46. *Attribution for small business and very small business eligibility.* In determining which entities qualify as small businesses or very small businesses, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are

determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates, will be counted in determining small business eligibility.

47. A consortium of small businesses or very small businesses is a "conglomerate organization formed as a joint venture between or among mutually independent business firms," each of which *individually* must satisfy one of the definitions of small business or very small business in §§ 1.2110(f) and 101.1319 of the Commission's rules.

iv. Supporting Documentation

48. Applicants should note that they will be required to file supporting documentation to their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as small business or very small business (or consortia of small businesses or very small businesses) for this auction.

49. Applicants should further note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

50. *Small business or very small business eligibility (Exhibit C).* Entities applying to bid as small businesses or very small businesses (or consortia of small businesses or very small businesses) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate*, the gross revenues for the preceding three years of each of the following: (i) The applicant, (ii) its affiliates, (iii) its controlling interests, and (iv) the affiliates of its controlling interests. Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, a schedule of gross revenues for each of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of small businesses or very

small businesses, this information must be provided for each consortium member.

E. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit D)

51. Each applicant must certify on its FCC Form 175 application under penalty of perjury that the applicant, its controlling interests, its affiliates, and the affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules are not in default on any payment for Commission licenses (including down payments) and not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. *Applicants must include this statement as Exhibit D of the FCC Form 175.*

52. "Former defaulters"—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 59, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

F. Installment Payments

53. Installment payment plans will not be available in Auction No. 59.

G. Other Information (FCC Form 175 Exhibits E and F)

54. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(c)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of "designated entities" in its auctions. Applicants wishing to submit additional information may do so on Exhibit F (Miscellaneous Information) to the FCC Form 175.

H. Minor Modifications to Short-Form Applications (FCC Form 175)

55. After the short-form filing deadline (6 p.m. ET March 4, 2005), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official, change control of the applicant, or change bidding credits). See 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction59@fcc.gov. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 59. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

56. A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338-2850. Questions about other changes should be directed to Howard Davenport of the Auctions and Spectrum Access Division at (202) 418-0660.

I. Maintaining Current Information in Short-Form Applications (FCC Form 175)

57. 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. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

58. On Wednesday, February 23, 2005, the FCC will sponsor a seminar for Auction No. 59 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC 20554. The seminar will provide

attendees with information about pre-auction procedures, auction conduct, the FCC Automated Auction System, auction rules, and the MAS service rules.

59. For individuals who are unable to attend, Audio/Video of this seminar will be available via webcast from the FCC's Audio/Video Events page at <http://www.fcc.gov/realaudio/>.

B. Short-Form Application (FCC Form 175)—Due March 4, 2005

60. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6 p.m. ET on March 4, 2005. *Late applications will not be accepted.*

61. There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. See section III.D.

i. Electronic Filing

62. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon ET on February 23, 2005, until 6 p.m. ET on March 4, 2005. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on March 4, 2005.

63. Applicants must press the "SUBMIT Application" button on the "Submission" page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. When an applicant has successfully submitted the initial version of its FCC Form 175, the applicant receives an electronic confirmation that contains its FCC Registration Number (FRN) and associated password.

64. Information about accessing the FCC Form 175 is included in Attachment C of the Auction No. 59 Procedures Public Notice. Technical support is available at (202) 414-1250, 1-877-480-3201 option 9, or (202) 414-1255 (text telephone (TTY)); hours of service are 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.

ii. Completion of the FCC Form 175

65. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form

175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 59 Procedures Public Notice*.

iii. Electronic Review of FCC Form 175

66. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. There is no fee for accessing this system. See Attachment C of the *Auction No. 59 Procedures Public Notice* for details on accessing the review system.

67. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. NOTE: Applicants should not include sensitive information (*i.e.*, TIN/EIN) on any exhibits to their FCC Form 175 applications.

C. Application Processing and Minor Corrections

68. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) Those applications accepted for filing; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

D. Upfront Payments—Due April 1, 2005

69. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6 p.m. ET on April 1, 2005. Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 59 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the April 1, 2005, deadline

will result in dismissal of the application and disqualification from participation in the auction.

i. Making Auction Payments by Wire Transfer

70. Wire transfer payments must be received by 6 p.m. ET on April 1, 2005. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

71. Applicants must fax a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer—Auction Payment for Auction Event No. 59." In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

ii. Amount of Upfront Payment

72. In the *Part 1 Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that "former defaulters," *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments 50 percent greater than non-"former defaulters." For purposes of this calculation, the "applicant" includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules (as amended in the *Part 1 Fifth Report and Order*).

73. In the *Auction No. 59 Comment Public Notice*, the Bureau proposed that the amount of the upfront payment will determine the number of bidding units on which a bidder may place bids. In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have an

eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

74. In the *Auction No. 59 Comment Public Notice*, the Bureau proposed upfront payments on a license-by-license basis using a formula based on bandwidth and license area population: \$0.00000375 * kHz * License Area Population with a minimum of \$1,000 per license.

75. Advanced Metering Data Systems, Inc. (AMDS) suggests that the upfront payment for all licenses is too high and should be \$500 per license or be calculated by a different formula.

76. After reviewing AMDS's comment, the Bureau concludes that it should adopt the upfront payments proposed in the *Auction No. 59 Comment Public Notice*. The Bureau also believes that the upfront payment amounts are not too high as discussed in the Reserve Price or Minimum Opening Bid section. The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 59 Procedures Public Notice*.

77. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units on which it may wish to be active (bidding units associated with licenses on which the bidder has the standing high bid from the previous round and licenses on which the bidder places a bid in the current round) in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Applicants should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

EXAMPLE: UPFRONT PAYMENTS AND BIDDING FLEXIBILITY

Market No.	Block	Market name	Bidding units	Upfront payment
BEA010	AA	New York-No. New Jer.-Long Island, NY-NJ-CT-PA-MA-VT	\$2,400	\$2,400
BEA044	AF	Knoxville, TN	1,000	1,000

If a bidder wishes to bid on both licenses in a round, it must have selected both on its FCC Form 175 and purchased at least 3,400 bidding units (2,400 + 1,000). If a bidder only wishes to bid on one, but not both, purchasing 2,400 bidding units would meet the requirement for either license. The bidder would be able to bid on either license, *but not both at the same time*. If the bidder purchased only 1,000 bidding units, it would have enough eligibility for the Knoxville, TN license but not for the New York-No. New Jer.-Long Island, NY-NJ-CT-PA-MA-VT license.

Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

iii. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

78. The Commission will use wire transfers for all Auction No. 59 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418-2843 by April 1, 2005. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise.

E. Auction Registration

79. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

80. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) and the other containing the SecurID cards, both of which are required to place bids. These mailings will be sent only to the

contact person at the contact address listed in the FCC Form 175.

81. Qualified bidders that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified bidder that has not received both mailings by noon on Wednesday, April 20, 2005, should contact the Auctions Hotline at (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

82. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC headquarters, located at 445 12th St., SW., Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

83. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. The FCC Wide Area Network will no longer be available as a contingency plan. Qualified bidders are permitted to bid telephonically or electronically. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID

cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 59. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number.

84. Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

G. Mock Auction

85. All qualified bidders will be eligible to participate in a mock auction on Thursday, April 21, 2005. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

86. The first round of bidding for Auction No. 59 will begin on Tuesday, April 26, 2005. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

87. The Bureau will award all licenses in Auction No. 59 in a simultaneous multiple round auction. We received no comment on this issue. The Bureau concludes that it is operationally feasible and appropriate to auction the MAS licenses through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

ii. Maximum Eligibility and Activity Rules

88. The amount of the upfront payment submitted by a bidder will determine the initial (maximum) eligibility (as measured in bidding units) for each bidder. We received no comment on this issue.

89. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the Auction No. 59 Procedures Public Notice on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, applicants are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

90. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating.

91. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits a bid in the current round (*see* "Minimum Acceptable Bids and Bid Increments" in Section IV.B.iii). The minimum required activity is expressed as a percentage of the bidder's current bidding eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under "Auction Stages" in Section IV.A.3iii and "Stage Transitions" in Section IV.A.iv), the Commission adopts them for Auction No. 59.

iii. Auction Stages

92. The Commission will conduct the auction in two stages and employ an activity rule. In each round of Stage One, a bidder desiring to maintain its current eligibility would be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. Finally, in each round of Stage Two, a bidder desiring to maintain its current eligibility would be required to be active on at least 95 percent of its current bidding eligibility.

93. The Bureau reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required 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 bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required 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 Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by twenty-nineteenths (20/19).

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by using the bidding system's bidding module.

94. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, the Commission adopts them for Auction No. 59.

iv. Stage Transitions

95. The auction will generally advance to the next stage (*i.e.*, from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below 20 percent for three consecutive rounds of bidding in each Stage. In addition, the Bureau will retain the discretion to

change stages unilaterally by announcement during the auction.

96. Thus, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages 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 Commission believes that these stage transition rules are appropriate for use in Auction No. 59.

v. Activity Rule Waivers and Reducing Eligibility

97. Each bidder in the auction will be provided three 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 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.

98. 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 round 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. If a bidder has no waivers remaining and does not satisfy the required activity level, the current eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction.

99. 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 "Auction Stages" (*see* Section IV.A.iii). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

100. Finally, 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 FCC Automated Auction System) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new bids or withdrawals will not keep the auction open. **Note:** Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

vi. Auction Stopping Rules

101. For Auction No. 59, the Bureau will employ a simultaneous stopping rule and retain discretion to invoke a modified version of the stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder.

102. The Bureau also retains the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous high bids are withdrawn in a round.

103. In addition, the Bureau reserves the right to declare that the auction will end after a designated number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau will 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.

vii. Auction Delay, Suspension, or Cancellation

104. 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, administrative or weather necessity, or for any other reason that affects the fair 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. We emphasize 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.

B. Bidding Procedures

i. Round Structure

105. The initial schedule of bidding rounds 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. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

106. 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. Reserve Price or Minimum Opening Bid

107. In the *Auction No. 59 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 59 using the following license-by-license formula based on bandwidth and population:

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

108. The Bureau adopts the minimum opening bids proposed in the *Auction No. 59 Comment Public Notice*. The Bureau believes that the use of minimum opening bids is in the public interest because parties unable or unwilling to make proposed minimum opening bids most likely will be unable or unwilling to use the licenses to provide service to the public. The Bureau concludes that the absolute minimum opening bid of \$1,000 will not impede any party willing and able to use the license to provide Multiple Address Systems service. Under the Commission's current rules, the filing fee for a new microwave service license is \$730. Finally, small businesses qualifying for a thirty-five percent (35%) bidding credit and winning a multiple address systems license for the minimum opening bid of \$1,000 will have to pay \$650 for the license. Thus, even absent an auction, service providers would have to meet costs comparable to the proposed absolute

minimum opening bids in order to obtain a license.

109. The minimum opening bids for Auction No. 59 are reducible at the discretion of the Bureau. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid on specific licenses.

110. The specific minimum opening bids for each license available in Auction No. 59 are set forth in Attachment A of the *Auction No. 59 Procedures Public Notice*.

iii. Minimum Acceptable Bids and Bid Increments

111. In Auction No. 59 we will 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). We 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. The Bureau will retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate.

112. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Automated Auction System will list the nine bid amounts for each license.

113. 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 above. The difference between the minimum acceptable bid and the standing high bid for each license will define the bid increment "*i.e.*, bid increment = (minimum acceptable bid) — (standing high bid). 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.).

114. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Corresponding additional bid amounts will be 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.

115. 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.

116. The Bureau retains the discretion to change the minimum acceptable bids and bid increments and the methodology for determining the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Automated Auction System. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant.

iv. High Bids

117. At the end of each bidding round, the high bids will be determined based on the highest gross bid amount received for each license. A high bid from a previous round is sometimes referred to as a "standing high bid." A "standing high bid" will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. Bidders are reminded that standing high bids are counted as activity for purposes of the activity rule.

118. In the event of identical high bids on a license in a given round (*i.e.*, tied bids) a Sybase® SQL pseudo-random number generator will be used to assign a random number to each bid. The tied bid having the highest random number will become the standing high bid. The remaining bidders, as well as the high bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in a subsequent round, the high bid from the

previous round will win the license. If any bids are received on the license in a subsequent round, the high bid will once again be determined on the highest gross bid amount received for the license.

v. Bidding

119. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder's activity at the close of the round.

120. Please note that all bidding will take place remotely either through the FCC Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a bid submission). There will be no on-site bidding during Auction No. 59.

121. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) The licenses applied for on FCC Form 175 and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

122. In order to access the bidding function of the FCC Automated Auction System, bidders must be logged in during the bidding round using the bidder identification number provided in the registration materials, and the password generated by the SecurID card. Bidders are strongly encouraged to print bid confirmations for each round after they have completed all of their activity for that round.

123. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Automated Auction System also includes an import

function that allows bidders to upload text files containing bid information and a Type Bids function that allows bidders to enter specific licenses for filtering.

124. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. 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 in Section IV.B.iii.

125. Finally, bidders are cautioned to select their bid amounts carefully because, as explained in section vi, bidders that withdraw a standing high bid from a previous round, even if the bid was mistakenly or erroneously made, are subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

126. For Auction No. 59, the Commission adopts bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Commission will limit each bidder to withdrawals in no more than two rounds during the course of the auction. The two rounds in which withdrawals are used would be at the bidder's discretion.

127. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function 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 withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is removed does not count toward bidding activity. These procedures will enhance bidder flexibility during the auction.

128. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function in the FCC Automated Auction System (assuming that the bidder has not reached its withdrawal limit). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). **Note:** Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.

129. The Bureau will limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals

during the auction will be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

130. Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s).

131. In instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Results

132. Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureau will compile reports of all bids placed, bids withdrawn, current high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 59 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

133. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

134. After bidding has ended, the Commission will issue a public notice declaring the auction closed and identifying winning bidders, down payments, final payments, and any withdrawn bid payments due.

135. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 59 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business or very small business bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," Section IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Final Payment

136. Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 601)

137. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) and required exhibits for each license won through Auction No. 59.

D. Ownership Disclosure Information Report (FCC Form 602)

138. At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 CFR 1.913, 1.919, and 1.2112.

E. Tribal Lands Bidding Credit

139. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally recognized

tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or below 85 percent is eligible to receive a tribal land bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

F. Default and Disqualification

140. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

G. Refund of Remaining Upfront Payment Balance

141. All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 59 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from the applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

142. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund request to: Federal Communications Commission,

Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

143. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418-2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418-0578.

Federal Communications Commission.

Gary D. Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 05-2423 Filed 2-7-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval under Delegated Authority and Submission to OMB

SUMMARY: Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Michelle Long—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Mark Menchik—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building,

Room 10235, Washington, DC 20503, or email to mmenchik-omb.eop.gov

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

Report title: Home Mortgage Disclosure Act (HMDA) Loan/ Application Register.

Agency form number: FR HMDA-LAR.

OMB control number: 7100-0247.

Frequency: Annual.

Reporters: State member banks, subsidiaries of state member banks, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations under section 25 or 25A of the Federal Reserve Act.

Annual reporting hours: 150,942 hours.

Estimated average hours per response: State member banks, 242 hours; and mortgage subsidiaries, 192 hours.

Number of respondents: 519 State member banks, and 132 mortgage subsidiaries.

General description of report: This information collection is mandatory (12 U.S.C. 2803). The information is not given confidential treatment, however, information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)) and section 304 (j)(2)(B) of HMDA (12 U.S.C. 2803).

Abstract: The information reported and disclosed pursuant to this collection is used to further the purposes of HMDA. These include: (1) to help determine whether financial institutions are serving the housing needs of their communities; (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

Board of Governors of the Federal Reserve System, February 2, 2005.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. 05-2330 Filed 2-7-05; 8:45 am]

BILLING CODE: 6210-01-S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 05-18530) published on page 5182 of the issue for Tuesday, February 1, 2005.

Under the Federal Reserve Bank of Minneapolis heading, the entry for William E. Blomster, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *William E. Blomster; Viola Blomster as trustee of the E. Viola Blomster Revocable Trust; Keri Hilgendorf; and Lance Blomster*, all of Fairmont, Minnesota, acting in concert; to acquire voting shares of B & M Bancshares, Inc., Fairmont, Minnesota, and thereby indirectly acquire voting shares of State Bank of Fairmont, Fairmont, Minnesota.

Comments on this application must be received by February 16, 2005.

Board of Governors of the Federal Reserve System, February 2, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05-2331 Filed 2-7-05; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 22, 2005.

A. Federal Reserve Bank of Chicago (Patrick Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Douglas M. Kratz*, Bettendorf, Iowa, and *Perry B. Hansen*, Rapids City,