



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
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**DA 00-405**  
**February 25, 2000**

## **Supplemental Closed Broadcast Auction** **Auction No. 28**

### **Status of Applications to Participate in the Auction**

#### **Report No. AUC-00-28-C (Auction No. 28)**

The Federal Communications Commission ("FCC") has received 9 timely filed FCC short-form (Form 175) applications to participate in Auction No. 28, scheduled to begin on Tuesday, March 21, 2000, for AM, FM, LPTV, and TV Broadcast Construction Permits. These applications have been reviewed for completeness and compliance with the Commission's Rules, and have been classified into the following categories:

**ACCEPTED FOR FILING ..... 4 Applications**

**REMOVED ..... 5 Applications**

**Accepted:** Short-form (Form 175) applications accepted for filing are listed in Attachment A.

**These applicants will become qualified bidders upon receipt of the required upfront payment by 6:00 p.m. ET on Monday, March 6, 2000, as discussed below.** With respect to their applications, these applicants need take no further action except as may be necessary to keep their applications up-to-date.<sup>1</sup> Applicants are also advised that FCC account numbers are automatically created by the FCC software system for each applicant and are applicable for bidding only.

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<sup>1</sup> See 47 C.F.R. §§ 1.65 and 1.2105.

**Removed:** Certain MX Groups will be removed from Auction No. 28 because only one completed and timely short-form (Form 175) application was filed for an MX Group<sup>2</sup> or a settlement was submitted by the short-form (Form 175) application deadline. The following lists the applicant(s) for each of these MX Groups:

<u>FCC Account No.</u>	<u>Name</u>	<u>MX Group(s)</u>
0281820313	George S. Flinn, Jr.	AM1
0282227053	Rio Grande Broadcasting Company	FM1
0281231036	Irene Rodriguez Diaz de McComas	FM1
0281030195	United Broadcasters Company	FM1
0281306399	Trinity Broadcasting Network <sup>3</sup>	SST1, SST 2
0281240028	Towers, Inc.	SST9

In such cases, the underlying long-form applications associated with these short-form (Form 175) applications will be the subject of an applicant qualifications review or other appropriate Commission action by the Mass Media Bureau at a later date.

#### **UPFRONT PAYMENT DEADLINE**

Upfront payments and accompanying FCC Remittance Advice (FCC Form 159) for this auction are due at Mellon Bank, Pittsburgh, Pennsylvania, **by 6:00 p.m. ET on Monday, March 6, 2000**. Payments must be made by wire transfer and applicants must include their Taxpayer Identification Numbers (TIN). No other payment method is acceptable for this auction.<sup>4</sup> **Applicants are reminded to use their TIN numbers and not their FCC Account Numbers, on the FCC Remittance Advice (FCC Form 159).**

#### **OTHER IMPORTANT INFORMATION**

**Qualified Bidders:** A Public Notice listing all applicants qualified to bid in the auction will be released approximately one week after upfront payments have been received and payments and applications have been correlated. The same public notice will also include instructions on how to monitor the auction on-line, a bidding schedule for the mock auction, and the bidding schedule for the first day of the auction.

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<sup>2</sup> Implementation of Section 308(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, *First Report and Order in MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, 13 FCC Rcd 15920 (1998)*, ¶¶ 82, 154.

<sup>3</sup> The removal of MX Groups SST1 and SST2 from Auction No. 28 does **not** effect the acceptance of Trinity Broadcasting Network's short-form (Form 175) application in SST10.

<sup>4</sup> See "Supplemental Closed Broadcast Auction Public Notice," DA 99-2958 (rel. December 23, 1999).

**Prohibition of Collusion:** Bidders are reminded that Section 1.2105(c) of the Commission's Rules prohibits applicants for the same MX Group from communicating with each other during the auction about bids, bidding strategies, or settlements unless they have identified each other as parties with whom they have entered into agreements under section 1.2105(a)(2)(viii). If parties agreed in principle on all material terms, those parties must be identified on the short-form application under Section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations other applicants for the same MX Group.<sup>5</sup> For further details regarding collusion, refer to *Supplemental Closed Broadcast Auction Public Notice*. For Auction No. 28, this prohibition became effective at the filing deadline of short-form (Form 175) applications on Friday, February 18, 2000, and will end on the post-auction down payment due date to be announced in a future public notice. By electronically submitting their FCC short-form (Form 175) applications, applicants are certifying their compliance with Section 1.2105(c). In addition, 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 as soon as possible, but in any event, within 30 days, of any substantial change that be of decisional significance to that application. Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders are therefore required to make such notification to the Commission immediately upon discovery.

In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. Winning bidders will, upon conclusion of the auction, be required to disclose 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.<sup>6</sup> Bidders found to have violated the anti-collusion rule may be subject to sanctions.<sup>7</sup>

**Ex Parte Rule:** Applicants should also be aware that the Commission has generally exempted auction proceedings from the strict requirements of the *ex parte* rule (47 C.F.R. § 1.1208).<sup>8</sup>

**Mock Auction:** All applicants found to be qualified bidders are eligible to participate in a mock electronic auction on **Friday, March 17, 2000**. The Bureau will issue a public notice announcing when software for the mock auction will be posted on the World Wide Web.

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<sup>5</sup> See "Wireless Telecommunications Bureau clarifies Spectrum Auction Anti-Collusion Rules," *Public Notice*, DA 95-2244 (rel. October 26, 1995), 11 FCC Rcd 9645 (1995).

<sup>6</sup> Section 73.5005(a) of the Commission's rules requires that post-auction filings include the exhibits required by 47 C.F.R. Section 1.2107(d) (concerning any bidding consortia, joint bidding arrangements or other agreements relating to the competitive bidding process); Section 1.2110(i) (concerning designated entity status, if applicable); and Section 1.2112(a) & (b) (concerning disclosure of ownership and real party in interest information.)

<sup>7</sup> See 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.2109(d).

<sup>8</sup> See 47 C.F.R. § 1.1202(d) note (1); see also "Commission Announces that Mutually Exclusive 'Short-Form' Applications (Form 175) to Participate in Competitive Bidding Process ('Auctions') Are Treated as Exempt for Ex Parte Purposes." *Public Notice*, 9 FCC Rcd 6760 (1994).

**Remote Bidding Software:** Applicants are reminded that qualified bidders are eligible to bid either electronically or telephonically. To bid electronically, applicants should complete the software order form included in the *Supplemental Closed Broadcast Auction Public Notice*, or contact the Auctions Hotline at (717) 338-2888. To ensure timely delivery of remote bidding software before the auction begins, the Commission requests receipt of software orders by **5:30 p.m. ET on Tuesday, March 7, 2000**. The minimum hardware and software specifications required for the FCC remote bidding system are listed below:

- CPU: Intel ® Pentium or above
- RAM: 16 MB (more recommended if you have multiple applications open)
- Hard Disk: 33 MB available disk space
- 1.44 MB Floppy Drive or CD-ROM Drive (to install the Remote Bidding System)
- Modem: v.32bis 14.4 kbps Hayes© compatible modem (56.6 kbps recommended)
- Monitor: VGA or above
- Mouse or other pointing device
- Microsoft® Windows™ 95™ or 98™
- We recommend that you use Netscape® Communicator™ 4.7. However, you can also use Netscape Communicator 4.5, 4.51, or 4.61.

To download Netscape Communicator 4.7 free of charge, access the Netscape download site at <http://home.netscape.com/download/>

**Note:** The FCC Remote Bidding System has not been tested in a Macintosh, OS/2, or Windows NT™ environment. Therefore, the FCC will not support operating systems other than Microsoft Windows 95 or 98. This includes any other emulated Windows environment.

**Bidder Alerts:** All applicants must certify on their FCC short-form (Form 175) applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

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 may also call the FCC National Call Center at (888) CALL-FCC ((888) 225-5322).

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## **CONTACT INFORMATION**

For questions about payment or instructions for wiring upfront payments, contact Gail Glasser or Michelle Bennett, Auctions Accounting Group, at (202) 418-1995.

For additional information, contact: Ruby Hough, Auctions Operations at (202) 418-0660 (regarding bidding and general filing status); or Kathy Garland and Bob Reagle, Auctions Operations at (717) 338-2888.

For technical questions regarding filing software, call FCC technical support at (202) 414-1250.

**- FCC -**

**FCC Broadcast Auction**  
**Form 175 Accepted List (Initial)**  
**Auction ID: 28**

ATTACHMENT A



**(Sorted by Applicant)**

**Date of Report: 2/24/00**

The following Form 175 Applicants have been judged 'Acceptable' and have applied for the following MX Group:

<b>FCC Account #</b>	<b>Name</b>	<b>Waiver Requested</b>
0281041132	KB Communications, Inc.	
<b>The following MX Group:</b>		
PST1--		
0281310443	KM Communications, Inc.	
<b>The following MX Group:</b>		
PST1--		
0281306399	Trinity Broadcasting Network	
<b>The following MX Group:</b>		
SST10--		
0282245085	Valley Public Television, Inc.	
<b>The following MX Group:</b>		
SST10--		