

some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

40. Applying this reasoning, we propose to limit each bidder in Auction No. 55 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. We seek comment on this proposal.

#### *F. Stopping Rule*

41. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." For Auction No. 55, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain open until bidding closes simultaneously on all licenses.

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

43. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 55:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing

a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage three of the auction.

ii. Keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

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

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

#### **IV. Conclusion**

45. Comments are due on or before October 1, 2003, and reply comments are due on or before October 8, 2003. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureau requires that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: [auction55@fcc.gov](mailto:auction55@fcc.gov). The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 55 Comments and the name of the commenting party. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business

hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

46. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

**Gary Michaels,**

*Legal Branch Chief, Auctions and Industry Analysis Division, WTB.*

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**BILLING CODE 6712-01-P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

**[Docket No. 98-204; DA 03-2896]**

#### **Media Bureau Implements New EEO Form 396-C With Mandatory Electronic Filing**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the mandatory electronic filing of the FCC Form 396-C. The Commission suspended the previous version of this form and adopted the current version with a new EEO rule. Paper version of the form will not be accepted after deadline date unless accompanied by request for waiver.

#### **FOR FURTHER INFORMATION CONTACT:**

Estella Salvatierra (202) 418-1789, Policy Division, Media Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Media Bureau's Public Notice ("PN"), DA 03-2896, adopted and released September 23, 2003. The complete text of this PN is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and may also be purchased from the Commission's copy contractor, Qualex International, Portals

II, 445 12th Street SW., Room CY-B-402, Washington, DC 20554, telephone (202) 863-2893; facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

### Synopsis of Public Notice

1. By this *PN* the Media Bureau announces mandatory electronic filing for FCC Form 396-C, Multi-channel Video Program Distributor EEO Program Annual Report (September, 2003 Edition).

2. Mandatory electronic filing commenced on September 23, 2003. The paper version of the form will not be accepted for filing after September 23, 2003, unless accompanied by an appropriate request for waiver of the electronic filing requirement. The forms are due to be filed with the Commission by September 30, 2003. For 2003, only, filers may file the form up to midnight on October 15, 2003, and still be timely. Users can access the electronic filing system via the Internet from the Media Bureau's Web Site at: <http://www.fcc.gov/mb>

3. Randomly selected MVPDs will be required to fill out portions of the Supplemental Investigation Sheet ("SIS") at the end of the form. Only those required to file the SIS will see a box checked on page one of the electronic version of the form next to the statement, "Supplemental Investigation Sheet attached." For those required to file the SIS, we are requiring this year that job descriptions be provided only for the technicians category (two descriptions) and that only questions one, three, and five be answered in the question list. Units will not know that they are required to fill out the SIS until they begin the electronic filing process, but that process can be stopped, and information filled out saved, before actually filing the form. As with other electronic forms, filers may fill out part or all the form and press "save" to save what they have filled out. "Savings" does not file the form but it does keep what has been entered in the filer's form so that the filer may return to the form later and complete it by the due date. In order to accurately file a form, filers must press the "File Form" button and complete the filing process. The form may be printed at any stage while it is being filled out.

4. Pursuant to the 1998 *Biennial Regulatory Review—Streamlining of Mass Media Applications, Rules and Processes* (63 FR 66104, December 1, 1998, Notice of Proposed Rulemaking "NPRM"), mandatory electronic filing was to commence six-months after a given form was made available for electronic use. The then Mass Media

Bureau made the prior version of the Form 396-C, the Form 395-A, available for electronic use more than six months ago. The form was made available in connection with a broadcast Equal Employment Opportunity ("EEO") rule adopted in February, 2000 that was subsequently vacated as a result of a Court order. As a result of the Court's action, the prior version of Form 396-C was suspended in January, 2001. The current version was adopted by the *Second Report and Order*, (68 FR 670, January 7, 2003) and *Third Notice of Proposed Rule Making* (67 FR 77374, December 17, 2002) in MM Docket No. 98-204, that adopted a new broadcast EEO rule. It is substantially similar to the version adopted in February, 2000, minus the annual employment report section that shows breakdown of unit workforce data by job category, race/ethnic group, and gender.

5. In the *NPRM*, which announced the Commission's electronic filing requirement, the Commission recognized the need for limited waivers of this requirement in light of the "burden that electronic filing could place upon some licensees who are seeking to serve the public interest, with limited resources, and succeed in a highly competitive local environment." Such waivers will not be routinely granted and the applicant must plead with particularity the facts and circumstances warranting relief.

6. Instructions for use of the electronic filing system are available in the CDBS User's Guide which can be accessed from the electronic filing Web site. Special attention should be given to the details of the applicant account registration function, form filing function, and the fee form handling procedures, if a fee is required. Failure to follow the procedures in the User's Guide may result in an application being dismissed, returned, or not considered as officially filed.

7. Internet access to the CDBS public access system at the Commission's Web Site requires a user to have a browser such as Netscape version 3.04 or Internet Explorer version 3.51, or later.

8. For technical assistance using the system or to report problems, please contact the CDBS Help Desk at (202) 418-2MMB. To request additional information concerning specific broadcast applications, please call (202) 418-2700 (radio forms) or (202) 418-1600 (television forms).

### FCC Notice Required by the Paperwork Reduction Act

9. On September 22, 2003, the Commission received notice that the Office of Management and Budget

(OMB) had, on September 17, 2003, approved the information collection contained herein pursuant to the "emergency processing" provisions of the Paperwork Reduction Act of 1995 (5 CFR 1320.13). The OMB Control Number for the FCC Form 396 is 3060-1033. The annual reporting burdens for this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data and completing and reviewing the collection of information, are estimated to be: 2,200 respondents, 10 minutes to 2.5 hours per response per annum, for a total annual burden of 3188 hours; no annual costs. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC, 20554. Please include the OMB Control Number: 3060-1033, in your correspondence. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to [leslie.smith@fcc.gov](mailto:leslie.smith@fcc.gov) or call (202) 418-0217.

10. Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. The OMB Control Number for this collection is 3060-1033. *The forgoing Notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.*

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

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## 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)).