

Total Annual Burden: 1,034,620 hours.

Privacy Act Impact Assessment: N/A.
Nature and Extent of Confidentiality: The Commission will continue to allow respondents to certify, on the first page of each submission, that some data contained in that submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity making the submission. If the Commission receives a request for, or proposes to disclose the information, the respondent would be required to show, pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission, that the information in question is entitled to confidential treatment. We will retain our current policies and procedures regarding the confidential treatment of submitted FCC Form 477 data, including use of aggregated, non-company specific data in our published reports.

Need and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) during this comment period in order to obtain the full three year clearance from them. The Commission is submitting this information collection to OMB as an extension (no change in the reporting requirement). There is a 50,520 hourly burden reduction that is being reported to OMB. This adjustment is due to a reduction in the estimated time per response from the last submission to the OMB. It is also due to respondents' increased familiarity with the new, online filing procedures and with the changes in their own systems that were necessary to comply with this information collection, which respondents have gained in experience during the two filings required during OMB's one year approval of the data collection on a pilot basis.

This collection improves the Commission's understanding of the extent of broadband deployment, facilitating the development of appropriate broadband policies and the Commission's ability to carry out its obligation under section 706 of the Telecommunications Act of 1996 to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion." In addition, the Telecommunications Act of 1996 directs the Commission to take actions to open all participants, including new entrants. A central task in creating his framework is the opening of previously monopolized local

telecommunications markets. By collecting timely and reliable information about the pace and extent of competition for local telephony service in different geographic areas, including rural areas, the Commission significantly improves the ability to evaluate the effectiveness of actions the Commission and the states are taking to facilitate economic competition in those areas.

The information is used by Commission staff to prepare reports that help inform consumers and policy makers at the federal and state level of deployment of competition in the local telephone service market and the deployment of broadband services. The Commission will continue to use the information to better inform its understanding of broadband deployment in conjunction with its congressionally mandated section 706 reports. The Commission also uses the data to support this analyses in a variety of rulemaking proceedings under the Communications Act of 1934, as amended. Absent this information collection, the Commission would lack essential data for assisting it in determining the effectiveness of its policies and fulfilling its statutory responsibilities in accordance with the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010-3541 Filed 2-22-10; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 10-31; DA 10-125]

Closed Auction of Broadcast Construction Permits Scheduled for July 20, 2010; Auction 88 Applicants Must Provide Supplemental Information by March 12, 2010; Comment Sought on Competitive Bidding Procedures for Auction 88

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of certain broadcast FM, AM, and FM Translator construction permits scheduled to commence on July 20, 2010 (Auction 88). This document also seeks comments on competitive bidding procedures for Auction 88.

DATES: Comments are due on or before February 25, 2010, and reply comments

are due on or before March 11, 2010. Auction 88 applicants must provide supplemental information by March 12, 2010.

ADDRESSES: You may submit comments, identified by AU Docket No. 10-31, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or telephone: 202-418-0530 or TTY: 202-418-0432.

- The Wireless Telecommunications Bureau requests that a copy of all comments and reply comments be submitted electronically to the following address: auction88@fcc.gov.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* For auction legal questions: Lynne Milne and Howard Davenport at (202) 418-0660. For general auction questions: Jeff Crooks at (202) 418-0660 or Linda Sanderson at (717) 338-2868. Media Bureau, Audio Division: For

service rule questions: Lisa Scanlan or Tom Nessinger at (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 88 Comment Public Notice* released on February 4, 2010. The complete text of the *Auction 88 Comment Public Notice*, including Attachments A and B, and related Commission documents, are available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The *Auction 88 Comment Public Notice* and related Commission documents also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone 202-488-5300, fax 202-488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA10-125. The *Auction 88 Comment Public Notice* and related documents also are available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/88/>, or by using the search function for AU Docket No. 10-31 on the ECFS Web page at <http://www.fcc.gov/cgb/ecfs/>.

I. Introduction

1. The Wireless Telecommunications and the Media Bureaus (the Bureaus) announced an auction of certain broadcast FM, AM, and FM Translator construction permits and sought comment on the procedures to be used for this auction. The *Auction 88 Comment Public Notice* also establishes a deadline for the submission to the Commission of an FCC Registration Number (FRN) by each applicant to permit access to the Commission's electronic short-form application filing and auction bidding systems, and provides for dismissal of those application(s) where the applicant fails to provide its FRN by March 12, 2010. This auction, which is designated Auction 88, is scheduled to commence on July 20, 2010. Auction 88 will be a closed auction; only those entities listed in Attachment A to the *Auction 88 Comment Public Notice* will be eligible to participate in this auction.

II. Background

2. Auction 88 will resolve pending closed groups of mutually exclusive applications for full-power FM and FM translator construction permits that have been the subject of various

Commission and judicial decisions. Included in these groups are twelve applications that were recently amended to specify operation as commercial broadcast stations. Auction 88 will also resolve mutual exclusivity between applications for new AM stations on 640 kHz and 1230 kHz in the Terre Haute, Indiana, area. The 13 FM application groups and the two FM Translator application groups (all of which are former Mixed Groups), and the three closed AM application groups identified in Attachment A of the *Auction 88 Comment Public Notice* will now proceed to auction.

III. Construction Permits in Auction 88

3. Auction 88 will offer construction permits for 13 commercial FM stations, two commercial FM translator stations, and three commercial AM stations as listed in Attachment A. Attachment A of the *Auction 88 Comment Public Notice* also sets forth proposed minimum opening bids and upfront payments for permits being offered in this auction.

4. An applicant listed in Attachment A of the *Auction 88 Comment Public Notice* may become qualified to bid only if it submits an FRN pursuant to the instructions set forth in the *Auction 88 Comment Public Notice* and meets the additional filing, qualification and payment requirements, as will be further described in future public notices. Each qualified bidder will be eligible to bid on only those construction permits specified for that qualified bidder in Attachment A of the *Auction 88 Comment Public Notice*. All applicants within these groups of mutually exclusive applications (MX groups) are directly mutually exclusive with one another, therefore no more than one construction permit will be awarded for each MX group.

IV. Due Diligence

5. Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the construction permits for broadcast facilities they are seeking in this auction. Bidders are responsible for assuring themselves that, if they win a construction permit, they will be able to build and operate facilities in accordance with the Commission's rules. 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 construction permittee in a broadcast service, subject to certain conditions

and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success.

V. FCC Registration Number Information Required

6. Each applicant is required to submit its FCC Registration Number (FRN) by no later than 5 p.m. Eastern Time (ET) on Friday, March 12, 2010, in order to be able and eligible to participate in Auction 88. Failure to submit an FRN pursuant to the instructions in the *Auction 88 Comment Public Notice* will result in dismissal of the applicant's application(s) and will result in disqualification of the applicant from Auction 88.

7. The Commission's rules require all persons and entities doing business with the Commission to obtain a unique identifying number called the FRN and to provide the FRN with all applications or feeable filings, as well as with other transactions with the Commission involving payment of money. Accordingly, use of an FRN is mandatory for all applicants for Auction 88. Submission of an FRN is necessary to permit each applicant to log in to the FCC's Integrated Spectrum Auction System (ISAS or FCC Auction System) and continue to participate in the auction process.

8. Applicants that do not have an FRN must obtain one by registering using the FCC's Commission Registration System (CORES). To access CORES, point your web browser to the FCC Auctions page at <http://wireless.fcc.gov/auctions/> and click the CORES link under Related Sites. Next, follow the directions provided to register and receive your FRN. Be sure to retain this number and password and keep such information strictly confidential.

9. To submit an FRN, each applicant listed in Attachment A must provide its applicant name and FRN in an e-mail to auction88@fcc.gov or fax this information to Kathryn Hostetter at (717) 338-2850. Each applicant's FRN submission also must describe the submitter's relationship to the applicant or must describe the basis for the submitter's authorization to submit an FRN on behalf of the applicant. The Bureaus note that, in some cases, an individual or entity may have obtained multiple FRNs during the time that the applications in Attachment A have been pending. For those applicants listed in Attachment A with a short-form application (FCC Form 175) on file (i.e., the closed AM application groups MM-AM039-640, MM-AM040-1230 and

MM-AM041-750), the applicant must submit the FRN associated with the Taxpayer Identification Number (TIN) that it used in connection with the submission of its initially filed short-form application.

10. For further information, contact the FCC ULS Customer Support Hotline at (877) 480-3201 option 2, (717) 338-2888, or (717) 338-2824 (TTY). The hotline is available to assist with questions Monday through Friday 8 a.m. to 6 p.m. ET. In order to provide better service to the public, all calls to the hotline are recorded.

VI. Submission of Auction Short-Form Applications

11. The Bureaus will specify procedures for Auction 88 applicants to electronically file short-forms applications (FCC Form 175) in ISAS in a future public notice. Those procedures will include instructions for reporting changes pursuant to 47 CFR 1.65. Applicants are reminded that certain changes may be considered a major modification of an application and could result in dismissal of the application and disqualification of an applicant from participation in Auction 88.

VII. Bureaus Seek Comment on Auction Procedures

A. Auction Structure

i. Simultaneous Multiple-Round Auction Design

12. The Bureaus proposed to auction all construction permits included in Auction 88 using the Commission's standard simultaneous multiple-round (SMR) auction format. This type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual construction permits. Typically, bidding remains open on all construction permits until bidding stops on every construction permit. The Bureaus seek comment on this proposal.

ii. Round Structure

13. The Commission will conduct Auction 88 over the Internet, and telephonic bidding will be available as well. The toll-free telephone number for the Auction Bidder Line will be provided to qualified bidders. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction.

14. The auction will consist of sequential bidding rounds, each followed by the release of round results. Details on viewing round results,

including the location and format of downloadable round results files, will be included in the same public notice.

15. The Bureaus proposed to retain the 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. Under this proposal, the Bureaus may change the amount of time for the bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. The Bureaus seek comment on this proposal. Commenters may wish to address the role of the bidding schedule in managing the pace of the auction and the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirements or bid amount parameters, or by using other means.

iii. Stopping Rule

16. The Bureaus have discretion to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time. For Auction 88, the Bureaus proposed to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all construction permits remain available for bidding until bidding closes simultaneously on all construction permits. More specifically, bidding will close simultaneously on all construction permits after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids (if bid withdrawals are permitted in this auction). Thus, unless the Bureaus announce alternative procedures, bidding will remain open on all construction permits until bidding stops on every construction permit. Consequently, it is not possible to determine in advance how long the auction will last.

17. Further, the Bureaus proposed to retain the discretion to exercise any of the following options during Auction 88: (1) Use a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all construction permits after the first round in which no bidder applies a waiver, withdraws a provisionally winning bid (if withdrawals are permitted in this auction), or places any new bids on any construction permit for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the

provisionally winning bidder would not keep the auction open under this modified stopping rule; (2) Declare that the auction will end after a specified number of additional rounds (special stopping rule). If the Bureaus invoke this special stopping rule, they will accept bids in the specified final round(s), after which the auction will close; and (3) Keep the auction open even if no bidder places any new bids, applies a waiver, or withdraws any provisionally winning bids (if withdrawals are permitted in this auction). In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a waiver.

18. The Bureaus proposed to exercise these options only in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising these options, the Bureaus are likely to attempt to change the pace of the auction by, for example, changing the number of bidding rounds per day and/or changing minimum acceptable bids. The Bureaus proposed to retain the discretion to exercise any of these options with or without prior announcement during the auction. The Bureaus seek comment on these proposals.

iv. Information Relating to Auction Delay, Suspension, or Cancellation

19. For Auction 88, the Bureaus proposed that, by public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureaus, in their 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 Bureaus to delay or suspend the auction. The Bureaus emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity

rule waivers. The Bureaus seek comment on this proposal.

B. Auction Procedures

i. Upfront Payments and Bidding Eligibility

20. The Bureaus have delegated authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as the efficiency of the auction process and the potential value of similar spectrum. The upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on construction permits. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these considerations in mind, the Bureaus proposed the upfront payments set forth in Attachment A of the *Auction 88 Comment Public Notice*. The Bureaus seek comment on this proposal.

21. The Bureaus further proposed that the amount of the upfront payment submitted by a bidder will determine the bidder's initial bidding eligibility in bidding units. The Bureaus proposed that each construction permit be assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction 88 Comment Public Notice*, on a bidding unit per dollar basis. The number of bidding units for a given construction permit is fixed and does not change during the auction as prices change. A bidder may place bids on multiple construction permits, provided that (1) each such construction permit is designated for that bidder in Attachment A of the *Auction 88 Comment Public Notice*, and (2) the total number of bidding units associated with those construction permits does not exceed the bidder's current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid (or hold provisionally winning bids) in any single round, and submit an upfront payment amount covering that total number of bidding units. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round.

ii. Activity Rule

22. 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.

23. The Bureaus proposed a single stage auction with the following activity requirement: In each round of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on one hundred (100) percent of its bidding eligibility. A bidder's activity in a round will be the sum of the bidding units associated with any construction permits upon which it places bids during the current round and the bidding units associated with any construction permits for which it holds provisionally winning bids. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction. The Bureaus seek comment on this proposal.

iii. Activity Rule Waivers and Reducing Eligibility

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

25. The FCC Auction System assumes that a bidder that does not meet the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless (1) the bidder has no activity rule waivers remaining; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the activity requirement. If a bidder that is eligible to bid on only one construction permit has no waivers remaining and does not satisfy the required activity level, its eligibility will be permanently reduced, eliminating the bidder from the auction. If a bidder that is eligible to bid on more than one construction permit has no waivers

remaining and does not satisfy the required activity level, its current eligibility will be permanently reduced, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

26. A bidder that is eligible to bid on more than one construction permit and has insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the reduce eligibility function in the FCC Auction System. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rule. Reducing eligibility is an irreversible action; once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility, even if the round has not yet closed.

27. Under the proposed simultaneous stopping rule, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity rule waiver (using the apply waiver function in the FCC Auction System) during a bidding round in which no bids are placed or withdrawn (if bid withdrawals are permitted in this auction), the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver applied by the FCC Auction System in a round in which there are no new bids, withdrawals (if bid withdrawals are permitted in this auction), or proactive waivers will not keep the auction open. A bidder cannot apply a proactive waiver after bidding in a round, and applying a proactive waiver will preclude a bidder from placing any bids in that round. Applying a waiver is irreversible; once a proactive waiver is submitted, that waiver cannot be unsubmitted, even if the round has not yet closed.

28. The Bureaus proposed that each bidder in Auction 88 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction. The Bureaus seek comment on this proposal.

iv. Reserve Price or Minimum Opening Bids

29. The Bureaus proposed to establish minimum opening bid amounts for Auction 88. The Bureaus believe a minimum opening bid amount, which has been used in other broadcast auctions, is an effective bidding tool for accelerating the competitive bidding process. The Bureaus do not propose to establish a separate reserve price for the

construction permits to be offered in Auction 88.

30. For Auction 88, the Bureaus proposed minimum opening bid amounts determined by taking into account the type of service and class of facility offered, market size, population covered by the proposed broadcast facility, and recent broadcast transaction data. A proposed minimum opening bid amount for each construction permit available in Auction 88 is set forth in Attachment A of the *Auction 88 Comment Public Notice*. The Bureaus seek comment on these proposals.

31. If commenters believe that these minimum opening bid amounts will result in unsold construction permits, are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested amounts or formulas for reserve prices or minimum opening bids. In establishing the minimum opening bid amounts, the Bureaus particularly seek comment on factors that could reasonably have an impact on valuation of the broadcast spectrum, including the type of service and class of facility offered, market size, population covered by the proposed broadcast FM, AM and FM Translator station and any other relevant factors.

v. Bid Amounts

32. The Bureaus proposed that, in each round, eligible bidders be able to place a bid on a given construction permit in any of up to nine different amounts. Under this proposal, the FCC Auction System interface will list the acceptable bid amounts for each construction permit.

33. The first of the acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a construction permit will be equal to its minimum opening bid amount until there is a provisionally winning bid for the construction permit. After there is a provisionally winning bid for a construction permit, the minimum acceptable bid amount will be a certain percentage higher. That is, the minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage. If, for example, the minimum acceptable bid percentage is 10 percent, the minimum acceptable bid amount will equal (provisionally winning bid amount) * (1.10), rounded. If bid withdrawals are permitted in this

auction, in the case of a construction permit for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the construction permit.

34. The eight additional bid amounts are calculated using the minimum acceptable bid amount and a bid increment percentage, which need not be the same as the percentage used to calculate the minimum acceptable bid amount. The first additional acceptable bid amount equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded. If, for example, the bid increment percentage is 5 percent, the calculation is (minimum acceptable bid amount) * (1 + 0.05), rounded, or (minimum acceptable bid amount) * 1.05, rounded; the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.10, rounded; etc. The Bureaus will round the results using the Commission's standard rounding procedures for auctions.

35. For Auction 88, the Bureaus proposed to use a minimum acceptable bid percentage of 10 percent. This means that the minimum acceptable bid amount for a construction permit will be approximately 10 percent greater than the provisionally winning bid amount for the construction permit. To calculate the additional acceptable bid amounts, the Bureaus proposed to use a bid increment percentage of 5 percent.

36. The Bureaus retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the bid increment percentage, and the number of acceptable bid amounts if the Bureaus determine that circumstances so dictate. Further, the Bureaus retain the discretion to do so on a construction permit-by-construction permit basis. The Bureaus also retain the discretion to limit (a) the amount by which a minimum acceptable bid for a construction permit may increase compared with the corresponding provisionally winning bid, and (b) the amount by which an additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, the Bureaus could set a \$10,000 limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if calculating a minimum acceptable bid using the minimum acceptable bid percentage results in a minimum acceptable bid amount that is \$12,000 higher than the provisionally winning

bid on a construction permit, the minimum acceptable bid amount would instead be capped at \$10,000 above the provisionally winning bid. The Bureaus seek comment on the circumstances under which the Bureaus should employ such a limit, factors the Bureaus should consider when determining the dollar amount of the limit, and the tradeoffs in setting such a limit or changing other parameters, such as changing the minimum acceptable bid percentage, the bid increment percentage, or the number of acceptable bid amounts. If the Bureaus exercise this discretion, they will alert bidders by announcement in the FCC Auction System during the auction. The Bureaus seek comment on these proposals.

vi. Provisionally Winning Bids

37. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. At the end of a bidding round, a provisionally winning bid for each construction permit will be determined based on the highest bid amount received for the construction permit. In the event of identical high bid amounts being submitted on a construction permit in a given round (i.e., tied bids), the Bureaus will use a random number generator to select a single provisionally winning bid from among the tied bids. (Each bid is assigned a random number, and the tied bid with the highest random number wins the tiebreaker.) The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If any bids are received on the construction permit in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the construction permit.

38. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the construction permit at the close of a subsequent round, unless the provisionally winning bid is withdrawn (if bid withdrawals are permitted in this auction). Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

vii. Bid Removal and Bid Withdrawal

39. For Auction 88, the Bureaus proposed the following bid removal procedures. Before the close of a bidding round, a bidder has the option of removing any bid placed in that

round. By removing selected bids in the FCC Auction System, a bidder may effectively unsubmit any bid placed within that round. In contrast to the bid withdrawal provisions a bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid. The Bureaus seek comment on this bid removal proposal.

40. The Bureaus also seek comment on whether bid withdrawals should be permitted in Auction 88. When permitted in an auction, bid withdrawals provide a bidder with the option of withdrawing bids placed in prior rounds that have become provisionally winning bids. A bidder may withdraw its provisionally winning bids using the withdraw bids function in the FCC Auction System. If permitted, a bidder that withdraws its provisionally winning bid(s) is subject to the bid withdrawal payment provisions of the Commission rules.

41. In Auction 88, bidders will have limited opportunity to aggregate construction permits because of the pre-established closed MX Groups. Moreover, bid withdrawals, particularly those made late in Auction 88, could result in delays in licensing new broadcast FM, AM and FM Translator stations and attendant delays in the offering of new broadcast service to the public. The Commission also has noted that in some instances bidders may seek to withdraw bids for improper purposes. Based on this Commission guidance, on the experience of the Bureaus with past broadcast auctions, and on the potential for delays in providing broadcast service to the public, for this auction the Bureaus proposed to prohibit bidders from withdrawing any bids after the round has closed in which bids were placed. The Bureaus seek comment on this proposal.

C. Post-Auction Payments

i. Interim Withdrawal Payment Percentage

42. If withdrawals are allowed in this auction, the Bureaus seek comment on the appropriate percentage of a withdrawn bid that should be assessed as an interim withdrawal payment, in the event that a final withdrawal payment cannot be determined at the close of the auction. In general, the Commission's rules provide that a bidder that withdraws a bid during an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or a subsequent auction. However,

if a construction permit for which a bid has been withdrawn does not receive a subsequent higher bid or winning bid in the same auction, the final withdrawal payment cannot be calculated until a corresponding construction permit receives a higher bid or winning bid in a subsequent auction. When that final payment cannot yet be calculated, the bidder responsible for the withdrawn bid is assessed an interim bid withdrawal payment, which will be applied toward any final bid withdrawal payment that is ultimately assessed.

43. The Commission's rules provide that, in advance of each auction, a percentage shall be established between three percent and twenty percent of the withdrawn bid to be assessed as an interim bid withdrawal payment. The Commission has indicated that the level of the interim withdrawal payment in a particular auction will be based on the nature of the service and the inventory of the construction permits being offered. The Commission noted that it may impose a higher interim withdrawal payment percentage to deter the anti-competitive use of withdrawals when, for example, there are few synergies to be captured by combining construction permits.

44. Applying the reasoning that a higher interim withdrawal payment percentage is appropriate when aggregation of construction permits is not expected, as with the construction permits subject to competitive bidding in Auction 88, if the Bureaus allow bid withdrawals in this auction, the Bureaus proposed the maximum interim withdrawal payment allowed under the current rules. Specifically, the Bureaus proposed to establish an interim bid withdrawal payment of twenty percent of the withdrawn bid for this auction. The Bureaus seek comment on this proposal.

ii. Additional Default Payment Percentage

45. Any winning bidder that defaults or is disqualified after the close of an 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) is liable for a default payment under 47 CFR 1.2104(g)(2). This payment consists of a deficiency payment, equal to the difference between the amount of the bidder's bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of

the subsequent winning bid, whichever is less.

46. The Commission's rules provide that, in advance of each auction, a percentage shall be established between three percent and twenty percent of the applicable bid to be assessed as an additional default payment. The Commission has indicated that the level of the additional payment in a particular auction will be based on the nature of the service and the inventory of the construction permits being offered. As the Commission has indicated, the level of this payment in each case will be based on the nature of the service and the inventory of the construction permits being offered.

47. As previously noted by the Commission, defaults weaken the integrity of the auction process and may impede the deployment of service to the public, and an additional default payment of more than the previous three percent will be more effective in deterring defaults. In light of these considerations for Auction 88, the Bureaus proposed an additional default payment of twenty percent of the relevant bid. The Bureaus seek comment on this proposal.

48. 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 47 CFR 1.1206(b).

Auction 88 Applicants

Albert Benavides
Amor Radio Group Corp.
Aritaur Communications, Inc.
Arkansas Valley Broadcasting, LLC
BBK Broadcasting
Big Sky Company
Birach Broadcasting Corporation
Boat Of Steam Broadcasting
Bott Broadcasting Company
Central Michigan University
Colorado Alpine Broadcasting Company
Contemporary Media Inc.
Coyote Communications, Inc.
CTS Communications Development Corp.
Darby Radio Enterprises
David Fleisher & Melissa Krantz
Directel Inc.
EB Needles LLC
Educational Media Foundation

Eric P. Straus
 Evandel Ministries Inc.
 Evangel Ministries, Incorporated
 Fort Bend Broadcasting Company Inc.
 Four Corners Broadcasting LLC
 George S. Flinn, Jr.
 Good News Media Inc.
 Grace Communications L.C.
 Harry Media
 Hawkeye Communications, Inc.
 Jem Broadcasting Co., Inc.
 KM Communications, Inc.
 KRJ Company
 La Capra Corporation
 Lancer Media
 Marist College
 Metro Broadcasters-Texas Inc.
 Metro North Communications Inc.
 Michael R. Walton Jr.
 Mid-America Radio Group Inc.
 MTD, Inc.
 Music Express Broadcasting, Corp.
 Music Ministries, Inc.
 Oxford Radio Inc.
 Peace Broadcasting Network
 Penn-Jersey Educational Radio Corp.
 Poor Mountain Broadcasting
 Positive Alternative Radio, Inc.
 Powell Meredith Communications
 Company
 Radio Rosendale
 Ramar Communications Inc.
 Ramsey Leasing, Inc.
 Robert Durango LLC
 Robert M. McDaniel
 Rocky Mountain Radio Company LLC
 Romar Communications, Inc.
 Rosen Broadcasting, Inc.
 S.I. Broadcasting
 Sacred Heart University, Inc.
 Salija Bokram/Michael J. St. Cyr
 Sarkes Tarzian Inc.
 South Shore Broadcasting, inc.
 Southern Cultural Foundation

Steven Dinetz
 The MacDonald Broadcasting Company
 Tri-County Radio, Incorporated
 William S. Poorman
 Willtronics Broadcasting Co.
 Word Power, Inc.
 WTCM Radio, Inc.
 Yampa Valley Broadcasting Inc.

Federal Communications Commission.

William W. Huber,

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

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Renewal of a Currently Approved Collection (3064-0127); Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC hereby gives notice that it is seeking public comment on the proposed renewal of its Occasional Qualitative Surveys information collection (OMB No. 3064-0127). At the end of the comment period, any comments and recommendations received will be

analyzed to determine the extent to which the FDIC should modify the collection prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before April 26, 2010.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.
- E-mail: comments@fdic.gov.
- Mail: Gary A. Kuiper (202.898.3877), Counsel, Federal Deposit Insurance Corporation, F-1072, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about this renewal, please contact Gary A. Kuiper, by telephone at 202.898.3877 or by mail at the address identified above.

SUPPLEMENTARY INFORMATION: The FDIC is proposing to renew this collection:

Title: Occasional Qualitative Surveys.
Estimated Number of Respondents and Burden Hours:

FDIC document	Number of surveys	Hours per survey	Number of respondents	Burden hours
Occasional Qualitative Surveys	15	1	850	12,750
Total	15	1	850	12,750

General Description of Collection: The information collected in these surveys is anecdotal in nature, that is, samples are not necessarily random, the results are not necessarily representative of a larger class of potential respondents, and the goal is not to produce a statistically valid and reliable database. Rather, the surveys are expected to yield anecdotal information about the particular experiences and opinions of members of the public, primarily staff at respondent banks or bank customers. The information is used to improve the way FDIC relates to its clients, to develop agendas for regulatory or statutory

change, and in some cases to simply learn how particular policies or programs are working, or are perceived in particular cases.

Current Action: The FDIC is proposing to renew this information collection.

Request for Comment

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection,

including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.