

Attachment B

GUIDELINES FOR COMPLETION OF FCC FORM 175 AND EXHIBITS

A. FCC Form 175

Because of the significance of the FCC Form 175 application to the auction, applicants should especially note the following:

Auction Number: The FM Translator auction is Auction No. 83.

Applicant Name: Name given is used as your bidder name in the auction.

Applicant Address: Applicants must submit a street address (not a Post Office box number), suitable for mail or private parcel delivery.

Applicant Classification: Applicants must indicate their legal classification. The FCC Form 175 requires the applicant to classify itself as an individual, joint venture, partnership, trust, corporation, consortium, association, limited liability company (LLC) or government entity.

Applicant Status: Applicants are requested to indicate their status as a rural telephone company, minority-owned business and/or women-owned business, so that the FCC can monitor its performance in promoting economic opportunities for these designated entities. **Applicants that seek a noncommercial educational (“NCE”) FM translator station license must indicate their status as noncommercial educational.**

Bidding Credit Eligibility: Applicants that qualify for the New Entrant Bidding Credit must enter the applicable bidding credit (25 percent or 35 percent) in the bidding credit eligibility item on the Form 175. Applicants are advised that this is the sole opportunity to select “New Entrant” status and claim a bidding credit level (if applicable). There is no opportunity to change the election once the initial short-form filing deadline passes on March 14, 2003.

Licenses/Construction Permits: Applicants must indicate construction permit preferences by electronically filing FCC Form 349, completing Section I, the Tech Box from Section III-A, and the Section VI Certification. All applicants must specify the CDBS-assigned file number(s) of the Form 349 application(s) in Exhibit F to the FCC Form 175. Be advised that there is no opportunity to modify the engineering submissions after the short-form filing deadline.

Authorized Bidders: Applicants must list the name(s) of the person(s) (no more than three) authorized to represent them at the auction. Only those individuals listed on the FCC Form 175 will be authorized to place or withdraw (if withdrawals are permitted) bids for the applicant during the auction.

Contact person/address: If the Commission wishes to communicate with the applicant by telephone or fax, those communications will be directed to the contact person identified on the FCC Form 175. Space is provided for an address, telephone number, fax number, and e-mail address. **All written communication and registration information will be directed to the applicant’s contact person at the address specified on the FCC Form 175. Applicants must provide a street address; no P.O. Box addresses may be used.**

Electronic or Telephonic Bidding Options: Bidders may participate in the auction either electronically or telephonically, and must specify their preference. To participate in the auction, every authorized bidder must have a SecurID card, which the FCC will provide free of charge.

Certifications: Applicants should carefully read the list of certifications on the FCC Form 175. These certifications help to ensure a fair and competitive auction and require, among other things, disclosure to the Commission of certain information on applicant ownership and agreements or arrangements concerning the auction. 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.

Completeness: Applicants must submit all information required by the FCC Form 175 and by applicable rules. Failure to submit required information by the resubmission date will result in dismissal of the application and inability to participate in the auction.¹

NOTE: Applicants must press the "SUBMIT Application" button on the "Submission" page of the electronic form to successfully submit their FCC Form 175.

Continuing Accuracy: Each applicant is responsible for the continuing accuracy and completeness of information furnished in the FCC Form 175 and its exhibits.² Applicants are reminded that they consent to be audited in the certification section of the FCC Form 175 (see certification item number 6).

B. Exhibits and Attachments

In addition to the FCC Form 175 itself, applicants must submit additional information required by the FCC's rules. If attachments are not uploaded, the FCC Form 175 application submission process cannot be completed. Although the FCC does not require a particular format for this information, it has developed the following guidelines that will facilitate the processing of short-form applications. The FCC encourages applicants to submit this information using the following format. The electronic Form 175 has functionality allowing the applicant to upload exhibits/attachments with the Form 175 for FCC review. Once the applicant has uploaded the attachment, that attachment will be converted by the auctions system into an Adobe PDF format and become available for the applicant's review.

If an applicant finds that an attachment has not converted properly to Adobe PDF format, the applicant should take the following steps:

- 1) *Simplify the formatting of the file. For example, if using a Table structure in a WordPerfect document, remove the Table structure leaving the contents of the table, re-save the document.*
- 2) *Re-upload the attachment.*
- 3) *When the re-loaded attachment has successfully converted, delete the failed attachment.*

¹ See 47 C.F.R. § 1.2105(b).

² See *id.* § 1.65.

Exhibit A -- Applicant Identity and Ownership Information: Section 73.5002 of the broadcast competitive bidding rules specifies the bidding procedures, certification requirements, and anti-collusion rules applicable to applications for commercial broadcast services that are subject to auction. Subsection (b) of that rule requires the timely submission of short-form applications along with all required certifications, information and exhibits pursuant to the provisions of 47 C.F.R. § 1.2105(a) and any Commission public notices. Section 1.2105, in turn, requires the disclosure on the short-form of applicant ownership information as set forth in Section 1.2112. Specifically, 47 C.F.R. § 1.2105(a)(2)(ii) requires each applicant to fully disclose the real party or parties-in-interest, and the addresses and citizenship of the parties, in an exhibit to its FCC Form 175 application. In addition, the Section 1.2112 ownership disclosure requirements include, *inter alia*, a listing of FCC-licensed entities and a description of each such entity's relationship to the applicant and the applicant's real parties-in-interest.

Furthermore, each applicant applying for a New Entrant Bidding Credit must provide detailed ownership information for itself and its attributable interest holders, as defined by Section 73.3555 of the Commission's rules and by Note 2 to that Section. Regardless of whether a New Entrant Bidding Credit is being sought, all applicants must provide the identification and ownership information.

Exhibit B -- Agreements with Other Parties/Joint Bidding Arrangements: Applicants must attach an exhibit identifying all parties with whom they have entered into any agreements, arrangements or understandings of any kind that relate to the construction permits being auctioned, including any agreements relating to the post-auction market structure.³

Certification (4) to the FCC Form 175 requires the applicant to certify that it will not enter into any explicit or implicit agreements or understandings of any kind with parties not identified in the application regarding bid amounts, bidding strategies, or the particular licenses the applicant will or will not bid.⁴ *Except to the extent provided in 47 C.F.R. § 73.5002 (d)*, the prohibition of collusion set forth in 47 C.F.R. § 1.2105 (c) becomes effective upon the filing of short-form applications. To prevent collusion, the Commission's Rules *generally* prohibit communication among applicants for the same mutually exclusive permits or licenses between the initial short-form applications filing deadline and the deadline for down payments on licenses won, when such communication concern bids, bidding strategies, or settlements.⁵

Exhibit C -- Status as a New Entrant Bidding Credit Recipient: An applicant claiming that it qualifies for a 35 percent new entrant credit must provide a certification, under penalty of perjury, that neither it nor any of its attributable interest holders have any attributable interests in any other media of mass communications, as defined in 47 C.F.R. § 73.5008. An applicant claiming that it qualifies for a 25 percent new entrant bidding credit must provide a certification, under penalty of perjury, that neither it nor any of its attributable interest holders have attributable interests in more than three media of mass communications, as defined in 47 C.F.R. § 73.5008. In addition, applicants claiming a 25 percent bidding credit must identify and describe such media of mass communications.⁶

Attributable interests held by a winning bidder in existing low power television, television translator or FM translator facilities will not be counted among the bidder's other mass media interests in determining

³ *See id.* § 1.2105(a)(2)(viii).

⁴ *See id.* § 1.2105(a)(2)(ix).

⁵ *See id.* § 1.2105(c).

⁶ *See id.* §§ 73.5007 and 73.5008.

eligibility for a bidding credit.⁷ However, the new entrant bidding credit is not available to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in any existing media of mass communications, as defined by 47 C.F.R. § 73.5008, in the same area as the proposed secondary broadcast facility.⁸ Full service noncommercial educational stations, on both reserved and non-reserved channels, are included among “media of mass communications” as defined in Section 73.5008(b).⁹

Exhibit D -- Defaulters and Former Defaulters Information: Each applicant must attach an Exhibit certifying that it is not in default on any Commission construction permits or licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. Each applicant must also attach a statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission construction permit or license, or has ever been delinquent on any non-tax debt owed to any Federal agency. The applicant must provide such information for itself, for each of its controlling interests and affiliates, and for each affiliate of its controlling interests as defined in 47 C.F.R. § 1.2110.¹⁰

Exhibit E -- Information Requested of Designated Entities: Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(b)(2), or that are rural telephone companies, as defined in 47 C.F.R. § 1.2110(b)(3), may attach an exhibit regarding this status. This information, in conjunction with the information in the Applicant Status item, will assist the Commission in monitoring the participation of these "designated entities" in its auctions.

Exhibit F – FCC Form 349 File Numbers and additional Miscellaneous Information: Applicants must specify the CDBS-assigned file number of the Form 349 application(s) at Exhibit F. Likewise, applicants wishing to submit additional information may do so in Exhibit F.

NOTE: Applicants should not list their TIN numbers on any Exhibits to their FCC Form 175

⁷ See *id.* § 73.5007(a).

⁸ See *id.* § 73.5007(b).

⁹ See *Minnesota Christian Broadcasters, Inc.*, FCC 03-5 (rel. Jan. 17, 2003).

¹⁰ 47 C.F.R. § 1.2110 was amended in *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, 15 FCC Rcd 15293 (2000).