



Frequently Asked Questions About FCC Spectrum Auctions

What types of licenses does the FCC auction?

An FCC auction allows bidders to obtain licenses for commercial or private wireless services.

What services can be provided with an auctioned license?

In general, the FCC does not require licensees to provide a particular type of service so long as they meet the technical and build-out requirements. Licensees typically use spectrum to provide mobile cell phone service, fixed wireless Internet access, IoT, high capacity backhaul, or data transport services.

What types of auctions does the FCC hold?

The FCC has conducted more than 100 auctions of spectrum licenses. To date, in most of these auctions the bidders place ascending bids for licenses in one or more markets in multiple discrete rounds. The bids are placed simultaneously in each round and all licenses in the auction are open for bidding. In some auctions, the FCC also permits bidders to place a single bid on a combination (or “package”) for several licenses.

When does the FCC announce it will hold an auction and set the auction rules?

Before it sets an auction date and procedures, it FCC engages in a broad rulemaking process to allocate spectrum bands for the service, set the technical requirements (*e.g.*, transmit power limits and interference protection), establish auction bid credits for designated entities, set service and build-out rules, and address issues related to incumbent users of the spectrum band. At each step of the rulemaking process, the FCC seeks public comments and input to inform its final decisions. The FCC announces the date for the start of an auction after this rulemaking process is complete.

How does the FCC set specific procedures for each auction?

After the service rules have been set, the FCC releases a Public Notice approximately four to six months prior to the start of the auction proposing specific auction procedures and requirements. These proposals address a number of important auction specifics, such as the auction upfront and down payments, bidding activity rules, auction stages, and the software for placing bids. The Public Notice also proposes requirements for pre-auction applications and post-auction license applications. After it receives public input, the FCC releases a Public Notice approximately three to five months before the auction announcing the final auction procedures and requirements.

How can my company participate in an auction?

In order to be eligible to participate in an auction, a prospective bidder must (1) timely submit a complete application – typically FCC Form 175 (“short-form”), and (2) timely submit an upfront payment related to the licenses on which the applicant intends to place bids during the auction.

When is the short-form application due?

The deadline for filing a short-form application is typically 40 to 60 days before the start of bidding.



What information must be included in the short-form application?

In the short-form application, prospective bidders must provide the FCC with basic information about their qualifications to bid on and hold FCC licenses. This includes information about the applicant’s ownership and other FCC-regulated businesses. Applicants seeking bidding credits must provide additional information demonstrating that they qualify as designated entities.

A short-form applicant also must make a number of certifications, including that it is legally, financially, and technically qualified; does not exceed certain foreign ownership limits; is not in default of certain debt obligations to the FCC or to the federal government; and has disclosed all arrangements with other entities regarding its bids, bidding strategies, or the post-auction market structure.

A short-form applicant also must list all of the licenses it may choose to bid on, and designate up to three persons authorized to place bids.

What is the process for review of the short-form application?

After the short-form application deadline, FCC staff review each application to determine if it is complete and if the applicant is qualified to participate in the auction. During the review process, short-form applications are not available to the public.

After an initial review of short-form applications, the FCC releases a Public Notice listing the name of each bidder and its status as either “complete” or “incomplete”; if incomplete, the applicant is given a deadline to correct minor errors. Approximately two weeks prior to the start of the auction, the FCC announces whether an applicant is qualified or non-qualified, meaning the applicant is not eligible to participate in the auction. At that time, the short-form applications are made available for review by the public.

Who is eligible for bidding credits?

A designated entity (DE) applicant may apply to be eligible for bidding credits. In most auctions, the FCC sets specific definitions for DEs that may qualify as either a “small business,” a “very small business,” or a “rural service provider.” A DE receives bidding credits that offset the total amount of its gross winning bids, subject to certain caps and limits.

A “small business” or a “very small business” DE must demonstrate that it, and all of its affiliates, do not exceed an average gross revenue limit which is set for each auction. A “rural service provider” DE must demonstrate that it provides telecommunications in a rural area and serves no more than a certain maximum number of customers.

When is the upfront payment due?

The upfront payment is typically due about one month before the start of the auction.

How is the upfront payment calculated?

In a typical auction, the amount of an applicant’s upfront payment is a refundable deposit that establishes the number of “bidding units” on which it is eligible to bid in any given round of bidding. The



FCC establishes the number of bidding units associated with each market and license, and an applicant calculates its upfront payment based on its calculation of how many licenses it intends to bid on at the start of the auction.

What is the anti-collusion rule?

The FCC’s “anti-collusion” rule prohibits communications of any kind involving an applicant’s bids or bidding strategies during a defined “quiet period.” Specifically, the rule states:

All applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other’s, or any other applicants’ bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline.

The rule applies broadly to the applicant’s controlling interest holders, officers, directors, and 10% or greater owners.

When is the “quiet period”?

The quiet period for purposes of the anti-collusion rule begins on the deadline for submitting a short-form application and lasts until the date auction winners’ down payments are due, following the close of the auction. Thus, the precise length of the quiet period cannot be determined in advance and is different for each auction.

How is bidding conducted?

Auctions are structured to accept the highest bid(s) placed on a given license or a license market area in each round. The auctions typically are conducted electronically from Monday through Friday and can last from a few days to several months. In the early stage of an auction, there are a limited number of rounds per day and each round lasts for an hour or two. As the auction progresses, however, the FCC increases the number of rounds per day and reduces the time period for each round. The FCC releases round results approximately ten minutes after each round.

As discussed above, the upfront payment sets the bidder’s maximum “bidding units.” In each round, the bidder must place a sufficient number of qualifying bids to meet a specified bidding activity level based on its bidding units; if it does not maintain its activity level, its bidding units are reduced for the next round. The bidding activity rules are designed to keep the auction progressing to a conclusion while also allowing sufficient opportunity for active bidders to obtain licenses.

In some auctions, bids are placed for generic licenses in a given market. Once the auction concludes, winning bidders may opt to participate in a second auction process (the assignment phase) to bid on frequency-specific license blocks.

The auction closes once all bidding has stopped on all licenses.



What happens after bidding ends?

The FCC issues a Public Notice announcing the close of the auction, the winning bidders and their winning bid amounts, and procedures for submitting down payments, final payments, and FCC Form 601 “long-form” applications.

All winning bidders must then make a down payment, typically equivalent to 20% of its total winning bids. Upfront payment amounts are applied to the down payment due amount. The deadline for making the down payment is typically 10 business days after the Public Notice announcing the close of the auction. A winning bidder’s final payment, equivalent to the remaining balance due on its winning bids, is typically due within 10 business days after the down payment deadline.

The winning bidder must file a long-form application, typically on the same date the final payment is due. The FCC staff reviews the long-form application to determine the applicant’s qualifications, and may request additional information. Long-form applications also are subject to petitions to deny by third parties, although such challenges are infrequent.

The FCC typically begins granting licenses to auction winning bidders within two months of receiving long-form applications.

The information provided above is not legal advice, and should not be relied on as such. The content above is for informational purposes only, and is meant as a starting point on your search for answers to your legal questions.