



Instructions for Completing FCC Form 601 and FCC Form 602

Application for 28 GHz Upper Microwave Flexible Use Service Licenses for Next-Generation Wireless Services

OMB Control No. 3060-0798

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INSTRUCTIONS FOR COMPLETING FCC FORM 601 AND FCC FORM 602
APPLICATION FOR 28 GHz UPPER MICROWAVE FLEXIBLE USE SERVICE LICENSES FOR
NEXT-GENERATION WIRELESS SERVICES

This document contains instructions for filing FCC Form 601, Application for Wireless Telecommunications Bureau Radio Service Authorization, including Schedule B for Geographically Licensed Services (FCC Form 601), and FCC Form 602, FCC Ownership Disclosure Information for the Wireless Telecommunications Services (FCC Form 602).

The Commission's rules require that within ten (10) business days after the release of the *Auction 101 Closing Public Notice*,¹ in this case before **6:00 p.m. Eastern Time (ET) on February 14, 2019**, each winning bidder must electronically file its FCC Forms 601 and 602.²

Some of the information provided on a winning bidder's short-form application (FCC Form 175) will be pre-filled to its long-form application (FCC Form 601) in the online filing process, such as:

- an applicant's ownership information;
- for designated entities:
 - information about an applicant's affiliates, controlling interests, and affiliates of its controlling interests;
 - revenue and/or bidding credit percentage information; and
 - agreement information, including the name(s) of the parties to the agreement(s) (copies of the agreements will need to be attached as required).

If an applicant has an FCC Form 602 in the Commission's Universal Licensing System (ULS) by the FCC Form 601 filing deadline, the applicant is responsible for ensuring that the information on the FCC Form 602 on file with the Commission is complete and accurate. If an applicant needs to file a new or updated FCC Form 602 to reflect changes to ownership information submitted in the bidder's FCC Form 175 or to make additional updates, ULS can pre-fill the applicable ownership information from the FCC Form 175 into the FCC Form 602. Instructions for filing FCC Form 602 are provided in Section V of this document.

¹ *Auction of 28 GHz Upper Microwave Flexible Use Service Licenses for Next-Generation Wireless Services Closes; Gross Winning Bid Amounts Announced for Auction 101*, Public Notice, DA 19-23 (WTB/OEA Jan. 31, 2019) (*Auction 101 Closing Public Notice*).

² See 47 CFR § 1.2107(c), (d), (f). A copy of the *Auction 101 Closing Public Notice* will be sent to each qualified bidder via overnight delivery to the contact person at the contact address listed in each qualified bidder's short-form application (FCC Form 175). Each qualified bidder will also receive a confidential results letter containing information about the bidder's winning bids, if any, and its Auction 101 payment obligations, if applicable. See *Auction 101 Closing Public Notice* at 1-2, para. 3 & n.4.

An applicant is responsible for ensuring that all information in its FCC Form 601 and FCC Form 602, including information pre-filled from its FCC Form 175 submission, is complete and accurate prior to submission.³

I. FCC FORM 601 GENERAL REQUIREMENTS

Each applicant is strongly encouraged to use the format below to submit FCC Form 601 and exhibits to FCC Form 601 as required by the Commission's rules. Following this format will help expedite processing of FCC Form 601 and minimize follow-up requests for missing or clarifying information.

A. Technical Assistance with Filing FCC Form 601

During normal FCC operations, contact the ULS Support Hotline at 877-480-3201, option 2, or (717) 338-2824 (TTY). The ULS Support Hotline is available Monday through Friday from 8:00 a.m. to 6:00 p.m. ET. There are no weekend hours, and the hotline is closed on all Federal holidays. To provide quality service and ensure security, all telephone calls are recorded. In the event of a partial government shutdown, contact (717) 338-2769 for ULS support.

Each applicant bears full responsibility for the timely and complete submission of its long-form application (FCC Form 601). Each applicant should read the FCC Form 601 instructions carefully and consult the Commission's rules to ensure that, in addition to the materials described below, all of the information that is required under the rules is included with the FCC Form 601. Each applicant is also responsible for the continuing accuracy and completeness of information furnished in its pending application.⁴ Incomplete or defective applications may be returned to the applicant.⁵

A winning bidder must file its FCC Form 601 electronically before **6:00 p.m. Eastern Time (ET) on February 14, 2019**. An applicant that fails to submit its FCC Form 601 by this deadline and fails to establish good cause for any late-filed submissions shall be deemed to have defaulted and will be subject to the default payments set forth in Section 1.2104(g) of the Commission's rules.⁶

B. Number of Forms To Be Filed

An applicant applying for multiple licenses may submit a single FCC Form 601 (including all required schedules, attachments, and exhibits) if *all* filing requirements associated with the application are identical *except* for the market designator(s) and market names(s). Ordinarily, an applicant must file a separate FCC Form 601 for licenses in each radio service code. However, because all of the licenses available in Auction 101 are in one radio service – UU – an applicant can file a single FCC Form 601 for all licenses for which it is the winning bidder in Auction 101. An applicant seeking a tribal lands bidding credit in one or more markets, but not all markets, should submit two separate applications in order to distinguish those markets in which the applicant intends to apply for a tribal lands bidding credit from

³ Applicants are reminded that some information is included in both FCC Form 601 and FCC Form 602. As a result, applicants may need to make corresponding changes to their FCC Form 601 as a result of changes to their FCC Form 602, and vice versa.

⁴ 47 CFR § 1.65.

⁵ See 47 CFR § 1.934(a), (d), (f); see also 47 CFR § 1.933(b).

⁶ See 47 CFR §§ 1.2104(g), 1.2107(c).

those markets in which the applicant is not seeking a tribal lands bidding credit (see Section IV (Instructions for Applicants Seeking Tribal Lands Bidding Credits), below).

C. Consortia

License(s) won by a consortium must be applied for as follows: (a) an individual member of the consortium or a new legal entity comprising two or more individual consortium members must file for licenses covered by the winning bids; (b) each member or group of members of a winning consortium seeking separate licenses will be required to file a separate FCC Form 601 for its/their respective license(s) in their legal business name; (c) in the case of a license to be partitioned or disaggregated, the member or group filing the applicable FCC Form 601 shall provide the parties' partitioning or disaggregation agreement with the FCC Form 601; and (d) if a designated entity (DE) credit is sought (either small business or rural service provider), the applicant must meet the applicable eligibility requirements in the Commission's rules for the credit.⁷ Each consortium member, whether filing individually or as a member of a new legal entity made up of two or more members of the consortium, must use the consortium's FCC Registration Number (FRN) when filing a separate FCC Form 601.⁸ Within ten (10) business days after the grant of the license(s), each licensee, whether filing individually or as a member of a new entity made up of two or more members of the consortium, must substitute the licensee's FRN for that of the consortium.⁹

II. FILING FCC FORM 601

A. Basic Guidelines for Filing FCC Form 601

- Some of the data entry fields on the FCC Form 601 will be pre-filled with information from FCC Form 175.
- The application consists of data entry fields as well as "yes or no" questions. You must respond to all of the questions on the application. If you respond "Yes" to a question, you may be required to file an attachment explaining the specific circumstances (see form for specific instructions).
- An "Attachments" link is provided for uploading attachment files. You are responsible for filing all required attachments.
- Applications must be completed and submitted within the specific filing window for the auction, in this case before **6:00 p.m. Eastern Time (ET) on February 14, 2019**.

⁷ 47 CFR § 1.2107(g); see also 47 CFR § 1.2110(b)(4)(i), (c)(6); *Updating Part 1 Competitive Bidding Rules et al.*, Order on Reconsideration of the First Report and Order; Third Order on Reconsideration of the Second Report and Order; Third Report and Order, 30 FCC Rcd 7493, 7535-36, 7574, 7583-86, paras. 101-03, 190, 214-26 (2015) (modified by Erratum, 30 FCC Rcd 8518 (2015)) (*2015 Part 1 Report and Order*) (discussing consortia for rural service providers and in relation to prohibited joint bidding arrangements, and denying two petitions for reconsideration filed in response to *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, Report and Order, 21 FCC Rcd 891 (2006) (*CSEA/Part 1 Report and Order*)); Section III (Organization of Application Exhibits), below.

⁸ 47 CFR § 1.2107(g)(1)(i).

⁹ 47 CFR § 1.2107(g)(1)(ii).

- Prior to submitting an application, you may click the “Reference Copy” link (where available) to create a preview of your completed application.
- Once an FCC Form 601 has been submitted, if you re-open the application, you must re-submit the application (by clicking the “**Submit Application**” button again), even if no changes are made to the application. If you do not click on the “**Submit Application**” button again, ULS will treat the application as not yet submitted.

B. Step-by-Step Instructions for Filing FCC Form 601

1. Access ULS through the Internet at <http://wireless.fcc.gov/uls>. Select the “**Log In**” button in the “Online Filing” section from this page.

Note: Go to http://esupport.fcc.gov/index.htm?job=getting_connected for information on compatible operating systems and browser software.

2. On the ULS License Manager Login page, enter the applicant’s FRN and password. Click “**Submit.**” ULS will verify that you have entered a valid FRN or otherwise prompt you to obtain an FRN.

Note: You must login to ULS with the same FRN used to file your FCC Form 175.

During normal FCC operations, contact the FCC Support Center at 877-480-3201, option 2; or TTY: (717) 338-2824. To provide quality service and ensure security, all telephone calls are recorded. In the event of a partial government shutdown, contact (717) 338-2769 for assistance with issues related to your FRN and password.

3. After entering the FRN and password correctly, the “My Applications” page or the “My Licenses” page displays the applicant’s existing applications or licenses (if any) and related information. To apply for a new license, click the “**Apply for a New License**” link in the left-hand navigation menu.

On the “Select Service” page, choose the “**Auction Winner**” dropdown menu. Then select the auction ID: **#101 – UU – Upper Microwave Flexible Use Service**. Click “**Continue.**”

4. Supply the information requested by FCC Form 601 and the Commission’s rules. Complete the questions on the pages as they appear, following the onscreen prompts and instructions. Use the buttons at the bottom of each page to continue to the next page or go back to the previous page. Provide attachments as instructed by clicking the “**Attachments**” link at the top of the page. Attachment requirements are described in Section III of this document. Be sure to use the standard attachment types and file descriptions set forth herein.
5. If you plan to file a request for a waiver or exception to the Commission’s rules, select “**Yes**” for the appropriate question on the Application Information page and enter the number of rule waivers being requested. Then upload an exhibit that includes citations to the specific rule sections and the circumstances for justifying the waiver request(s). Refer to the guidelines below for Exhibit F: Waiver Requests.
6. On the “Markets” page, the system pre-fills the Markets Summary table with data listing the specific license in each county for which the applicant is a winning bidder in Auction 101. The “Include in Application” column contains a checkbox for each license won. Initially, all checkboxes are selected indicating that you want to include all of the licenses won in this application. To unselect a license, clear its checkbox and click “**Save.**” The checkbox lets you

apply for the winning licenses in batches, rather than all in one application. This is important if you intend to seek a tribal lands bidding credit in some but not all markets. Click **“Continue.”** If you choose to file multiple applications, all such applications must be filed before **6:00 p.m. Eastern Time (ET) on February 14, 2019.**

7. The next page must be completed by applicants seeking a tribal lands bidding credit. If you are applying for markets in which you intend to seek a tribal lands bidding credit, see Section IV (Instructions for Applicants Seeking A Tribal Lands Bidding Credit), below.
8. Agreement information that was provided on an applicant’s FCC Form 175 will be pre-filled into its FCC Form 601. Applicants should carefully review this information to confirm that it is complete and accurate. An applicant can edit any information that was pre-filled, delete existing agreements, and/or add additional agreements, if needed. In addition, if the applicant has entered into, intends to enter into, or is in the process of negotiating any agreements that could affect its designated entity status, you must answer the appropriate question “Yes” on the “Agreement Information” page, and list the agreement name, agreement type, and parties to the agreement. Further, each applicant must summarize its agreements, and, as required, provide a copy of each such agreement as part of Exhibit D. Refer to the guidelines described below for Exhibit D: Agreements & Other Instruments.
9. For applicants seeking a small business or rural service provider bidding credit, information for the Applicant, Disclosable Interest Holder(s), and Affiliate(s) will be pre-filled from its FCC Form 175 into the FCC Form 601. Each applicant is responsible for ensuring that the information is complete and accurate. Applicants can edit any information that was pre-filled. If there have been changes to the Applicant, Disclosable Interest Holder(s), or Affiliate(s) information submitted on an applicant’s FCC Form 175, or additional information needs to be added, attach an exhibit summarizing the changes from the FCC Form 175 and provide the updated information on FCC Form 601. For further information, refer to the guidelines below for Exhibit C: Small Business Bidding Credits and Exhibit H: Rural Service Provider Bidding Credit.
Note: ULS requires a valid FRN for each of the Disclosable Interest Holders and Affiliates pre-filled from the FCC Form 175 or added to the FCC Form 601 filing.
10. Continue completing the questions on the pages as they appear, following the onscreen prompts and instructions until you reach the “Summary” page. Use the view and edit capabilities to review the application to confirm that it is complete and accurate. Correct information as necessary. Once you are confident that the application is ready for certification and submission, click on the **“Continue to Certify”** button.
11. The “Certification” page provides General Certification Statements. By “signing” this form, an applicant certifies that the statements listed in this section are true, complete, correct, and made in good faith.
12. To submit the application to the Commission, click the **“Submit Application”** button.
13. After the application has been submitted, a Confirmation page displays a file number. Applicants should print a copy of the Confirmation page for their records by choosing the **“Print”** option from the “File” menu of the web browser. Applicants can also print a copy of their complete application by selecting the **“Reference Copy”** link. Use the **“Log Out”** link at the top left of the page to exit ULS online filing.

C. Updating an FCC Form 601

Changes before the FCC Form 601 Deadline. An applicant may access its application to make changes until **6:00 p.m. Eastern Time (ET) on February 14, 2019** (the filing deadline) using the following steps:

- **Prior to Submitting:** If you quit your application at any time prior to submitting it, it will be saved in ULS. To continue working on a saved application, log in to ULS License Manager. Choose the **“My Applications”** link from the menu on the left side of the page and click on the **“Saved”** link. Click the link next to your saved application. On the next page, “Application At A Glance,” choose the **“Continue”** link under the “Work on This Application” menu. Saved applications for an auctionable service must be completed and submitted within the 10-day filing window. Any application that is not submitted by the deadline will not be reviewed by the Commission.
- **After Submitting:** Once you click the **“Submit Application”** button, ULS will assign a file number to the application. To make changes to a submitted application, log in to ULS License Manager. Choose the **“My Applications”** link from the left side of the page. Then choose the **“Submitted Applications”** link. Click on the file number of your application, and choose the **“Update”** link from the “Work on This Application” menu on the right side of the page. You must click the **“Submit Application”** button prior to the close of the 10-day filing window (i.e., before **6:00 p.m. Eastern Time (ET) on February 14, 2019**).

Important: If you open an application after you have clicked the **“Submit Application”** button, even if you make no changes to the application, you must click the **“Submit Application”** button again. If you do not, ULS will treat the application as not yet submitted.

Changes after the FCC Form 601 Deadline. To change any information on your application **after** the 10-day filing window has closed, log into the ULS License Manager with the applicant’s FRN and Password. Choose the **“My Application”** link from the left side of the page. Then click **“Pending Applications.”** Click on the file number of your application, and choose the **“Update”** link from the “Work on This Application” menu on the right side of the page.

Important: Any changes made to an application after the filing window has closed constitute an amendment to the application in ULS. The Commission’s rules contain limitations on the filing of major amendments after the **February 14, 2019**, deadline, which may affect the applicant’s legal rights.¹⁰ Acceptance of an amendment by the Commission’s ULS does not constitute a determination that the amendment is allowed under the Commission’s rules. Applicants are advised to consult the Commission’s rules in this regard prior to filing any change/amendment to their applications after the filing window has closed. Once the Commission has granted a license, you may request a modification.

III. ORGANIZATION OF APPLICATION EXHIBITS

A. FCC Form 601 and Rule-Related Exhibits.

Any exhibits to be attached to an application in response to a question on the Main Form or Schedule B of FCC Form 601 or as specified in the Commission’s rules should be identified as specified in the

¹⁰ See 47 CFR § 1.927; see also 47 CFR § 1.929.

instructions to the FCC Form 601. Applicants should select the “**Attachments**” link to connect to the “Attachments” page. Select the appropriate attachment type from the pull-down menu, enter the correct attachment description (listed below) in the text box provided, browse for your file, and click on the “**Add Attachment**” button. The electronic filing software will accept many different types of computer files. For a full list of acceptable file formats, see <https://www.fcc.gov/research-reports/guides/uploading-attachments->. Do not add password protection to attached files.

Provide exhibit attachments in ULS as applicable. Any exhibits to be attached to an application as a result of Commission rule requirements should be identified as follows:

Title

Exhibit A: Ownership

Exhibit B: Foreign Ownership

Exhibit C: Small Business Bidding Credits

Exhibit D: Agreements & Other Instruments

Exhibit E: Confidentiality Requests

Exhibit F: Waiver Requests

Exhibit G: Miscellaneous Information

Exhibit H: Rural Service Provider Bidding Credit

Exhibit X: Tribal Lands Bidding Credit Waiver Requests

Exhibit Y: Tribal Government Certification

Exhibit Z: Tribal Lands Bidding Credit Applicant Certification

As specified in the instructions to the FCC Form 601, each page of each exhibit must be identified with the letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. For example, “Exhibit A, Page 1 of 10.” **If the applicant is requesting confidential treatment for any information, refer to the guidelines described below for Exhibit E: Confidentiality Requests before continuing.**

1. EXHIBIT A: OWNERSHIP INFORMATION

Section 1.2112 of the Commission’s rules requires that each applicant for a license shall disclose fully the real party- or parties-in-interest.¹¹ This requirement may be fulfilled by providing an attachment referencing the file number, date, and name of filer of the appropriate FCC Form 602. For information regarding the filing of the FCC Form 602, see Section V of these instructions. To provide this information, applicants should upload the file, select Attachment Type “**Ownership**,” and enter “**Exhibit A: Ownership**” in the “Description” field on the “Attachments” page.

¹¹ 47 CFR § 1.2112.

Although ownership information can be provided by referencing the FCC Form 602, applicants should first confirm that their current FCC Form 602 accurately reflects all information discussed below and as required under Section 1.2112 of the Commission's rules.

a. Direct Ownership. An applicant must provide information regarding its direct ownership as follows:

- *General Rule:* The applicant must provide the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held.¹²
- If the applicant is a general partnership, provide the name, address, and citizenship of each partner, and the share or interest participation in the partnership.¹³
- If the applicant is a limited partnership, provide the name, address, and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to either the percentage of equity paid in or the percentage of distribution of profits and losses).¹⁴ In addition, if the applicant is a limited partnership, provide the name, address, and citizenship of each general partner, and the share or interest participation in the partnership.¹⁵
- If the applicant is a limited liability company, provide the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater.¹⁶

b. Indirect Ownership

Applicants must identify all parties holding a 10 percent or greater indirect ownership interest in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain.¹⁷ If the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.¹⁸

c. Other Interests and Entities

An applicant must list any Commission-licensed or -regulated entity and any applicant for a Commission license or authorization in which the applicant or any of the parties required to be identified by the applicant pursuant to Sections 1.2112(a)(1)-(5) of the Commission's rules owns 10 percent or more ownership interest, whether voting or nonvoting, common or preferred.¹⁹ This list must include a

¹² 47 CFR § 1.2112(a)(2).

¹³ 47 CFR § 1.2112(a)(4).

¹⁴ 47 CFR § 1.2112(a)(3).

¹⁵ 47 CFR § 1.2112(a)(1).

¹⁶ 47 CFR § 1.2112(a)(5).

¹⁷ 47 CFR § 1.2112(a)(6).

¹⁸ 47 CFR § 1.2112(a)(6).

¹⁹ 47 CFR § 1.2112(a)(7).

description of each such entity's principal business and a description of each entity's relationship to the applicant.²⁰

d. Multi-Layer Ownership Situations

To facilitate the FCC Form 601 review process, applicants whose ownership structures involve multiple layers are encouraged to provide a narrative and organizational chart detailing the relationships of the various entities.

2. EXHIBIT B: FOREIGN OWNERSHIP

An applicant that answers "Yes" to Question 47 or 48a on FCC Form 601 must provide an attachment consisting of one of the showings specified in (i), (ii), or (iii) below or the Commission will dismiss the application without further consideration:

(i) a demonstration that the applicant is exempt from the provisions of Section 310(b)(3) and Section 310(b)(4) of the Communications Act, as amended, or

(ii) a statement that the applicant has received prior Commission approval of its foreign ownership pursuant to the Commission's Section 310(b)(3) forbearance approach, or has received prior Commission approval of the foreign ownership of its direct and/or indirect controlling U.S. parent company(ies) pursuant to Section 310(b)(4), together with citation(s) to the relevant declaratory ruling(s) received by the applicant (i.e., DA or FCC Number, FCC Record citation if available, and release date), and a statement specifying that the Applicant is in compliance with the terms and conditions of its ruling and with the Commission's rules; or

(iii) A copy of a petition for declaratory ruling filed pursuant to (A) Section 1.990(a)(1) of the Commission's rules,²¹ requesting Commission approval of the foreign ownership of its direct and/or indirect controlling U.S. parent company(ies); or (B) Section 1.990(a)(2) of the Commission's rules,²² requesting Commission approval of the applicant's foreign ownership, held through one or more intervening U.S.-organized entities that hold non-controlling equity and/or voting interests in the applicant, along with any foreign interests held in the applicant directly (which shall not exceed 20 percent of its equity interests and/or 20 percent of its voting interests). The petition may be filed electronically on the Internet through the International Bureau Filing System (IBFS) and shall otherwise comport with the requirements of Sections 1.990 through 1.994 of the Commission's rules.²³

With respect to the showing specified in (ii) above, an applicant that is relying on a foreign ownership ruling(s) issued to an "affiliate" pursuant to the Commission's Section 310(b)(3) forbearance approach and Section 1.990(a)(2) of the Commission's rules, or pursuant to Section 310(b)(4) and Section 1.990(a)(1) of the Commission's rules, shall include in its showing a certification signed by the affiliate, a U.S.-organized successor-in-interest formed as part of a *pro forma* reorganization, or a controlling

²⁰ 47 CFR § 1.2112(a)(7).

²¹ 47 CFR § 1.990(a)(1).

²² 47 CFR § 1.990(a)(2).

²³ 47 CFR §§ 1.990-1.994.

parent company, stating that the affiliate or successor-in-interest is in compliance with the terms and conditions of the foreign ownership ruling(s) and the Commission's rules.²⁴

Additionally, if the applicant answers "Yes" to Question 47 or 48a on FCC Form 601, the applicant must respond to Question 48b to enable the Commission to determine whether the applicant has attached to its application the appropriate foreign ownership showing required by the Commission's *Foreign Ownership Second Report and Order*²⁵ and the foreign ownership rules adopted in that Order.²⁶

To provide the information required, the applicant should select Attachment Type "**Ownership**" and enter "**Exhibit B: Foreign Ownership**" in the Description field on the Attachments page.

- *Item (1)*: The showings specified in (i) and (ii) above, and information required by Question 48b, may be provided in narrative format.
- *Item (2) Petitions for Declaratory Ruling*: In keeping with the foreign ownership pre-approval process adopted in the *Foreign Ownership Second Report and Order*,²⁷ an auction applicant is required to certify in FCC Form 175 that, as of the deadline for filing the FCC Form 175 for a given auction, the applicant is in compliance with the foreign ownership requirements of Section 310 or that it has filed a request for relief from those requirements that is pending with the Commission.²⁸ Similarly, where foreign ownership is at issue, an applicant must indicate in its FCC Form 601 that it either has received a declaratory ruling that grants it permission to exceed the statutory foreign ownership limit or benchmark in Section 310(b), or that it has a request to do so that is currently pending before the Commission. An applicant's petition for a declaratory ruling to exceed the statutory limit or benchmark in Section 310(b)(3) or (b)(4), respectively, must be granted before any license for which the applicant is a high bidder may be granted.

3. EXHIBIT C: SMALL BUSINESS BIDDING CREDITS

Pursuant to Section 1.2110(f)(1) of the Commission's rules, the Commission may award bidding credits (i.e., payment discounts) to eligible small business entities.²⁹ As noted previously, revenue information for the Applicant, Disclosable Interest Holder(s), and Affiliate(s) will be pre-filled from the FCC Form 175 into the FCC Form 601. Applicants, however, must review the pre-filled information, and make any changes necessary so that all information is accurate and complete. Any other designated entity information must be provided by uploading a file, selecting Attachment Type "**Designated Entity**" and

²⁴ See 47 CFR § 1.994(b); see also 47 CFR § 1.990(d)(2) (defining the term "affiliate" for purposes of Sections 1.990-1.994 of the Commission's rules).

²⁵ See *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended, Second Report and Order*, 28 FCC Rcd 5741 (2013) (*Foreign Ownership Second Report and Order*). The Commission amended its foreign ownership rules in *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended, Report and Order*, 31 FCC Rcd 11272 (2016). The rules are now codified in 47 CFR §§ 1.5000-1.5004.

²⁶ See 47 CFR §§ 1.990-1.994.

²⁷ *Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5763, para. 37; see also 47 CFR § 1.990(a)(1)-(2).

²⁸ 47 CFR § 1.2105(a)(2)(vi).

²⁹ 47 CFR § 1.2110(f)(1); see also 47 CFR § 30.302(a)-(b).

entering “**Exhibit C: Small Business Bidding Credits**” in the “Description” field on the “Attachments” page. For example, applicants should use Exhibit C to provide information about an applicant’s affiliates, controlling interests, and affiliates of its controlling interests as required by the Commission’s rules. In addition, an applicant should use Exhibit C to explain any updates to the pre-filled information from its FCC Form 175 such as why certain entities’ revenues should not be attributed to the applicant.³⁰ However, as described below, Exhibit D should be used to submit any agreements that are required to be provided pursuant to the Commission’s rules that relate to the relationship between the applicant and its affiliates, controlling interests, and affiliates of its controlling interests.

For licenses available in Auction 101, the Commission’s rules specify that the following entities (and consortia thereof) may apply for small business bidding credits:

- An entity that, together with its affiliates, controlling interests, and affiliates of the controlling interests, has average annual gross revenues that do not exceed **\$55 million** for the preceding three (3) years, is eligible for a bidding credit of **fifteen percent (15%) (small business bidding credit)**.³¹
- An entity that, together with its affiliates, controlling interests, and affiliates of the controlling interests, has average annual gross revenues that do not exceed **\$20 million** for the preceding three (3) years, is eligible for a bidding credit of **twenty-five percent (25%) (very small business bidding credit)**.³²

a. Gross Revenues Test for Small Business Bidding Credit.

For purposes of determining whether an applicant is eligible for status as a small or very small business, the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests³³ shall be considered on a cumulative basis and aggregated.³⁴ In accordance with Section 1.2110(o) of the Commission’s rules, the applicant must provide the gross revenues for the most recently completed three calendar or fiscal years preceding the filing of the applicant’s FCC Form 175, **separately and in the aggregate** for the applicant, each of its affiliates, each of its controlling interests, and each of the affiliates of its controlling interests.³⁵ Gross revenues for purposes of determining eligibility are defined in Section 1.2110(o) of the Commission’s rules, which includes “all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business.”³⁶

³⁰ See 47 CFR §§ 1.2110(b), 1.2112(b)(1)-(2).

³¹ 47 CFR §§ 1.2110(f)(2)(i)(C), 30.302(a)(1), 30.302(b).

³² 47 CFR §§ 1.2110(f)(2)(i)(B), 30.302(a)(2), 30.302(b).

³³ 47 CFR § 1.2110(b)(1)(i), (c)(2), (c)(5); *see also Amendment of Part 1 of the Commission’s Rules—Competitive Bidding Procedures*, Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 15293, 15323-27, paras. 59-67 (2000) (*Part 1 Fifth Report and Order*).

³⁴ 47 CFR §§ 1.2110(b)(1), 1.2112(b)(2).

³⁵ 47 CFR §§ 1.2110(o), 1.2112(b)(2)(v); *see also* 47 CFR § 1.2110(b)(1)(i).

³⁶ 47 CFR § 1.2110(o); *see also In re Corr Wireless Communications, LLC, Auction No. 44, Waiver Request*, Letter Order, 18 FCC Rcd 25153, 25155 (2003) (gross revenue includes “proceeds derived from capital, including all proceeds from the sale or conversion of capital”).

In addition, all controlling interests and affiliates, as defined by the Commission's rules, must be included in the gross revenue calculations.³⁷

b. Members of Consortium Seeking Small Business Bidding Credit.

As stated above, each consortium member or a new legal entity comprising two or more individual consortium members that intends to hold a license covered by the winning bids of the consortium must file a separate FCC Form 601 and FCC Form 602 and shall use the consortium's FRN.³⁸ Each business entity comprising the consortium must qualify for the bidding credit and show its gross revenues separately.³⁹ If a consortium member is filing its own individual FCC Form 601, it should report the gross revenues of only that particular consortium member, along with its affiliates, its controlling interests, and the affiliates of its controlling interests. However, if two or more consortium members have formed a new entity pursuant to Section 1.2107(g)(1)(i) of the Commission's rules, then the combined gross revenues of the consortium members comprising the new entity must be reported.⁴⁰

c. Rural Telephone Cooperative.

Commission rule Section 1.2110(c)(2)(ii)(F) states that officers and directors of an applicant claiming a bidding credit shall be considered to have a controlling interest in the applicant.⁴¹ Generally, the gross revenues of all controlling interests, including officers and directors, must be attributed to the applicant for purposes of claiming eligibility for designated entity benefits.⁴² However, an applicant is exempt from these attribution requirements if the applicant or a controlling interest in the applicant is a rural telephone cooperative that complies with Section 1.2110(b)(4)(iii) of the Commission's rules.⁴³

In its Exhibit C attachment, an applicant seeking the rural telephone cooperative exemption must demonstrate how it complies with Section 1.2110(b)(4)(iii) of the Commission's rules. An applicant will be exempt from attributing the revenues of its officers and directors, if the applicant or a controlling interest in the applicant, is:

- Organized as a cooperative pursuant to state law;⁴⁴

³⁷ See 47 CFR § 1.2110(b)(1)(i), (c)(2), (c)(5).

³⁸ See 47 CFR §§ 1.2107(g)(1)(i), 1.2110(b)(4)(i); see also *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 911-12, paras. 51-52 (establishing consortium exception filing requirements).

³⁹ See 47 CFR § 1.2110(b)(4)(i), (c)(6).

⁴⁰ See 47 CFR § 1.2107(g)(2).

⁴¹ 47 CFR § 1.2110(c)(2)(ii)(F).

⁴² See 47 CFR § 1.2110(b)(1)(i), (c)(2)(ii)(F).

⁴³ 47 CFR § 1.2110(b)(4)(iii); see also 47 CFR § 1.2110(c)(2)(ii)(F).

⁴⁴ 47 CFR § 1.2110(b)(4)(iii)(A)(1)(i). If this condition cannot be met because the relevant jurisdiction does not have a statute that specifies requirements for organization as a cooperative, the applicant must show it is validly organized and its articles of incorporation, by-laws, and/or other documents provide that it operates pursuant to cooperative principles. 47 CFR § 1.2110(b)(4)(iii)(A)(2).

- A rural telephone company as defined by the Communications Act;⁴⁵ and
- Eligible for tax-exempt status under the Internal Revenue Code or adheres to the cooperative principles articulated in *Puget Sound Plywood, Inc. v. Commission of Internal Revenue*, 44 T.C. 305 (1965).⁴⁶

d. Attribution of Revenues of Disclosable Interest Holder (DIH) with Spectrum Use Arrangements.

In determining eligibility for small business bidding credits, an applicant must attribute the gross revenues of a DIH and the DIH’s affiliates if that DIH has an agreement to use more than twenty-five percent (25%) of the spectrum capacity of any individual license awarded with bidding credits.⁴⁷ A “disclosable interest holder” is defined within the rules as “any individual or entity holding a ten percent or greater interest of any kind in a designated entity, including but not limited to, a ten percent or greater interest in any class of stock, warrants, options or debt securities in the applicant or licensee.”⁴⁸ Applicants must include: a summary of the agreement that specifies the percentage of spectrum capacity the DIH uses for each license; the agreement itself as described below in Exhibit D: Agreements & Other Instruments;⁴⁹ the DIH’s name, FRN, and its relationship to the Applicant; the names and FRNs of the DIH’s affiliates; and the gross revenues for each of the last three reportable years for the DIH and its affiliates.

4. EXHIBIT D: AGREEMENTS & OTHER INSTRUMENTS

a. Bidding Agreements

Each applicant must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint ventures, partnerships, or other agreements or arrangements entered into relating to the competitive bidding process prior to the time the bidding was completed.⁵⁰ A list of the agreements disclosed on an applicant’s FCC Form 175 will be pre-filled on its FCC Form 601, but should be updated as necessary. Any other additional information should be provided by uploading a file and selecting the appropriate Attachment Type. For example, if an applicant must describe a Joint Bidding Agreement, the applicant should select the Attachment Type “**Bidding/Joint Bidding**” and enter “**Exhibit D: Summary of Joint Bidding Agreement**” in the “Description” field on the “Attachments” page. Similarly, if a Joint Venture Agreement must be described, the applicant should select the Attachment

⁴⁵ 47 CFR § 1.2110(b)(4)(iii)(A)(1)(ii).

⁴⁶ 47 CFR § 1.2110(b)(4)(iii)(A)(1)(ii); *see also Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures*, Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order, 18 FCC Rcd 10180, 10190-95, paras. 15-20 (2003); *Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures*, Second Order on Reconsideration of the Fifth Report and Order, 20 FCC Rcd 1942, 1949-50, paras. 17-18 (2005).

⁴⁷ 47 CFR § 1.2110(c)(2)(ii)(J); *see also 2015 Part 1 Report and Order*, 30 FCC Rcd at 7512-16, paras. 42-52.

⁴⁸ 47 CFR § 1.2110(c)(2)(ii)(J).

⁴⁹ *See* 47 CFR §§ 1.2110(j); 1.2112(b)(2)(vii).

⁵⁰ 47 CFR § 1.2107(d).

Type “**Joint Venture**” and enter “**Exhibit D: Summary of Joint Venture**” in the “Description” field on the “Attachments” page.

b. Other Agreements

To comply with the requirements of Commission rule Sections 1.2110(j) and 1.2112(b)(2)(iii)-(iv) and (vi)-(vii) relating to designated entities, all agreements must be listed on the FCC Form 601 and each applicant must provide a summary of its agreements and copies thereof.⁵¹ Each applicant must list, summarize, and provide the dates on which it entered into all agreements that support the applicant’s designated entity eligibility, including the establishment of *de facto* and *de jure* control.⁵²

Further, an applicant seeking DE eligibility must list and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, rights to hire and fire employees, and to appoint members to boards of directors or management committees.⁵³

For agreements, the applicant should refer to the Attachment Drop Down list to select the correct Attachment Type. **Failure to select the correct attachment type may trigger an error that will prevent an applicant from submitting its FCC 601 Form.** For example, if an applicant must attach a Shareholder Agreement as part of its filing to demonstrate its eligibility for the Small Business Bidding Credit, the applicant should select the Attachment Type “**Designated Entity**” and enter “**Exhibit D: Shareholder Agreement**” in the “Description” field on the “Attachments” page. If none of the Attachment types are appropriate, applicants can select Attachment Type “**Other Agreement**” and enter “**Exhibit D: Agreements & Other Instruments**” in the “Description” field on the “Attachments” page.

c. Executed copies of agreements required by the Commission’s rules (i.e., Section 1.2110(j)) must be included in Exhibit D⁵⁴

For those applicants with significant upload requirements, submitting separate agreements would ease the electronic filing process on ULS. For example, an applicant can submit one attachment for the list and summary of agreements and upload it with the caption “Exhibit D: List and Summary of Agreements” and then submit an attachment for each agreement, e.g., “Exhibit D: LLC Agreement,” “Exhibit D: Lease Agreement.” Applicants may elect to seek confidentiality for the agreements as described below for Exhibit E: Confidentiality Requests.

5. EXHIBIT E: CONFIDENTIALITY REQUESTS

Information required by the Commission’s rules is necessary to determine each applicant’s qualifications to be a Commission licensee and eligibility for any status claimed, and, as such, will be available for public inspection. Information that is commercial, financial, privileged, or that contains a trade secret may be redacted, and confidentiality may be sought pursuant to Section 0.459 of the Commission’s

⁵¹ 47 CFR §§ 1.2110(j), 1.2112(b)(2)(iii)-(iv), (vi)-(vii).

⁵² See 47 CFR §§ 1.2110(j), 1.2112(b)(2)(iii).

⁵³ See 47 CFR § 1.2112(b)(2)(iv).

⁵⁴ 47 CFR § 1.2110(j) (“[D]esignated entities must file with their long-form applications a copy of each such agreement.”).

rules.⁵⁵ An applicant requesting confidential treatment for any information required as a condition to participate in the auction must follow the procedures set out in Section 0.459 of the Commission's rules. Because the required information bears on an applicant's qualifications, the Commission envisions that confidentiality requests will not be granted routinely.

a. To file a Request for Confidential Treatment, Use Attachment Type: "Other"

If an applicant seeks confidential treatment of any information, it must attach a public statement justifying the request as to the particular redacted information for which confidential treatment is being requested. To provide this information, the applicant should upload this statement as a file, select Attachment Type "Other" and enter "**Exhibit E: Confidentiality Request for Redactions in Exhibit: __ [name of the document]**" in the "Description" field on the "Attachments" screen. If a confidentiality request is for an agreement or other information uploaded as a separate file, include a description.

b. To file the unredacted, non-public documents, use Attachment Type: Confidentiality

An Applicant submitting information under a confidentiality request shall file one copy of each Stamped Confidential Document through the Commission's Universal Licensing System. Each page of the Confidential Document shall be stamped "CONFIDENTIAL INFORMATION" and include the Applicant's name and the date the document was filed. When filing documents through ULS that contain confidential information, **the applicant must select Attachment Type "Confidentiality" for the particular unredacted attachment for which the Applicant is requesting confidential treatment. Otherwise, the attachment will be available for public inspection online in ULS.**

c. To file the redacted, public documents, use the appropriate Attachment Type

In addition, with respect to each stamped Confidential Document submitted, the Applicant shall also file through ULS a copy of the respective Redacted Confidential Document. Each Redacted Confidential Document shall have the same pagination as the Stamped Confidential Document from which it is derived. Each page of the Redacted Confidential Document shall be stamped "REDACTED – FOR PUBLIC INSPECTION." When filing redacted documents through ULS, the applicant **must not** select Attachment Type "Confidentiality" so that the documents will be available for public inspection online in ULS.

For redacted agreements that can be viewed by the public, the applicant should select the appropriate Attachment Type. For example, to file a redacted Management Agreement that is part of a filing to demonstrate eligibility for the Small Business Bidding Credit, the applicant should select the Attachment Type "**Designated Entity**" and enter "**Exhibit D: Management Agreement**" in the "Description" field on the "Attachments" page.

Below are a few examples of how to file the various attachments described above.

⁵⁵ See 47 CFR § 0.459.

Attachments

Type: Designated Entity Description: Exhibit D: REDACTED—Management Agreement

Type: Confidentiality Description: Exhibit D: UNREDACTED—Management Agreement

Type: Other Description: Exhibit E: Confidentiality Request for Management Agreement

To the extent that any page of the filing contains Confidential Information and/or non-confidential information, only the Confidential Information may be redacted and the pages of the unredacted and redacted filings shall clearly distinguish among Confidential Information and non-confidential information. The only difference between unredacted and redacted documents should be the presence or absence of confidential material.

6. EXHIBIT F: WAIVER REQUESTS

Note: This Section does not apply to tribal lands bidding credit waiver requests. For those requests, see Section IV, “Exhibit X: Tribal Lands Bidding Credit Waiver Requests,” below.

In the event an applicant wishes to file a request for waiver of a Commission rule,⁵⁶ the request should be filed with the corresponding application. The applicant should upload its waiver request as a file, select Attachment Type “Waiver” and enter “**Exhibit F: Waiver Requests**” in the “Description” field on the “Attachments” page.

Waiver requests filed after the FCC Form 601 filing deadline, **6:00 p.m. Eastern Time (ET) on February 14, 2019**, may delay the processing of the application. In addition, if a request for waiver is filed after this time, the applicant must amend its pending FCC Form 601. Please note that the Commission’s rules contain limitations on the filing of major amendments after the FCC Form 601 filing deadline.⁵⁷ Depending on the specific facts, a waiver request could be considered a major amendment.⁵⁸

7. EXHIBIT G: MISCELLANEOUS INFORMATION

In the event that a winning bidder wishes to provide any additional information that does not fall within the description of any of the other exhibits, these documents or files should be submitted by selecting Attachment Type “Other” and entering “**Exhibit G: Miscellaneous Information**” in the “Description” field on the “Attachments” page.

8. EXHIBIT H: RURAL SERVICE PROVIDER BIDDING CREDIT

Pursuant to Section 1.2110(f)(4) of the Commission’s rules, the Commission may award a rural service provider bidding credit (i.e., payment discounts) to eligible Applicants that have fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers and serve predominantly rural areas.⁵⁹ As noted previously, ownership information for the Applicant, Disclosable Interest Holder(s), and Affiliate(s) will be pre-filled from the FCC Form 175 into the FCC Form 601. Applicants, however, must

⁵⁶ See 47 CFR § 1.925.

⁵⁷ See 47 CFR § 1.927.

⁵⁸ See 47 CFR § 1.929.

⁵⁹ 47 CFR § 1.2110(f)(4); *see also* 47 CFR § 30.302(c); *2015 Part 1 Report and Order*, 30 FCC Rcd at 7529-38, paras. 86-108.

review the pre-filled information, and make any changes necessary so that all information is accurate and complete. **Additionally, subscribership information from FCC Form 175 will not be pre-filled in the FCC Form 601.** Rural service provider bidding credit information must be provided by uploading a file, selecting Attachment Type **“Rural Service Provider Bidding Credit”** and entering **“Exhibit H: Rural Service Provider Bidding Credit”** in the “Description” field on the “Attachments” page. For example, applicants will use Exhibit H to provide information about an applicant’s affiliates, controlling interests, and affiliates of its controlling interests as required by the Commission’s rules. In addition, an applicant will use Exhibit H to explain any updates to the pre-filled information from its FCC Form 175 such as why certain entities should not be attributed to the applicant. Applicants should also use Exhibit H to provide the information requested in Schedule B, Question 48 (parts (a) through (f)) on FCC Form 601. However, as described above, Exhibit D: Agreements and Other Instruments should be used to submit any agreements that are required to be provided pursuant to the Commission’s rules that relate to the relationship between the applicant and its disclosable interest holders and/or affiliates.

For purposes of determining whether an applicant is eligible for a rural service provider bidding credit, the number of subscribers of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests shall be considered on a cumulative basis and aggregated.⁶⁰ In accordance with Section 1.2110(f)(4)(i)(C) of the Commission’s rules, the applicant must provide the subscribership numbers for the applicant, each of its affiliates, each of its controlling interests, and each of the affiliates of its controlling interests.⁶¹ The number of subscribers for each entity is the combined wireless, wireline, broadband, and cable subscribers of the entity.⁶² Applicants must also show that they are in the business of providing commercial communications services to such subscribers⁶³ and that they serve predominantly rural areas.⁶⁴ For this purpose, “rural area” is defined as counties with a population density of 100 or fewer persons per square mile.⁶⁵

a. Members of Consortium Seeking Rural Service Provider Bidding Credit

As stated above, each consortium member or a new legal entity comprising two or more individual consortium members that intends to hold a license covered by the winning bids of the consortium must file a separate FCC Form 601 and FCC Form 602 and shall use the consortium’s FRN.⁶⁶ Each rural service provider comprising the consortium must qualify for the bidding credit and show its subscriber numbers separately.⁶⁷ If a consortium member is filing its own individual FCC Form 601, it should report the subscriber numbers of only that particular consortium member, along with its affiliates, its controlling interests, and the affiliates of its controlling interests. However, if two or more consortium members

⁶⁰ 47 CFR § 1.2110(f)(4)(i)(C); *see also* 2015 Part 1 Report and Order, 30 FCC Rcd at 7535, para. 99.

⁶¹ 47 CFR § 1.2110(f)(4)(i)(C).

⁶² 47 CFR § 1.2110(f)(4)(i)(C).

⁶³ 47 CFR § 1.2110(f)(4)(i)(A).

⁶⁴ 47 CFR § 1.2110(f)(4)(i)(B).

⁶⁵ 47 CFR § 1.2110(f)(4)(i)(B).

⁶⁶ *See* 47 CFR § 1.2107(g)(1)(i); *see also* CSEA/Part 1 Report and Order, 21 FCC Rcd at 911-12, paras. 51-52 (establishing consortium exception filing requirements).

⁶⁷ *See* 47 CFR § 1.2110(b)(4)(i), (c)(6).

have formed a new entity pursuant to Commission rule Section 1.2107(g)(1)(i), then the combined subscriber numbers of the consortium members comprising the new entity must be reported.⁶⁸

b. Attribution of Subscriber Numbers of Disclosable Interest Holder (DIH) with Spectrum Use Arrangements

In determining eligibility for the rural service provider bidding credit, an applicant must attribute the subscribers of a DIH and the DIH's affiliates if that DIH has an agreement to use more than twenty-five percent (25%) of the spectrum capacity of any individual license awarded with bidding credits.⁶⁹ A "disclosable interest holder" is defined within the rules as "any individual or entity holding a ten percent or greater interest of any kind in a designated entity, including but not limited to, a ten percent or greater interest in any class of stock, warrants, options or debt securities in the applicant or licensee."⁷⁰ However, where a DIH is not otherwise a controlling interest, affiliate, or an affiliate of a controlling interest of a rural service provider, its subscribers and those of its affiliates will not be attributable to the applicant if:

- The DIH is independently eligible for a rural service provider bidding credit; and
- The DIH's spectrum use and any spectrum use agreement are otherwise permissible under the Commission's rules.⁷¹

Applicants must include: a summary of the agreement that specifies the percentage of spectrum capacity the DIH uses for each license; the agreement itself as described above in Exhibit D: Agreements & Other Instruments;⁷² the DIH's name, FRN, and its relationship to the Applicant; the names and FRNs of the DIH's affiliates; the combined number, if any, of commercial communications services subscribers to wireless, wireline, broadband, and cable services that the DIH and each of its affiliates serve (along with the Federal Information Processing Standard (FIPS) numbers of each county where each entity has at least one subscriber); and whether the Applicant asserts that the DIH is independently eligible for the rural service provider bidding credit.

IV. INSTRUCTIONS FOR APPLICANTS SEEKING A TRIBAL LANDS BIDDING CREDIT

A. Filing the FCC Form 601 When Seeking A Tribal Lands Bidding Credit

If an applicant is interested in receiving a tribal lands bidding credit, it must apply to do so when initially filing the FCC Form 601 in ULS (see Section II, (Filing FCC Form 601), above). A tribal lands bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify. Applicant should file a single separate application for all of the licenses for which the applicant intends to seek a tribal lands bidding credit.

⁶⁸ See 47 CFR § 1.2107(g)(2).

⁶⁹ 47 CFR § 1.2110(c)(2)(ii)(J); see also *2015 Part 1 Report and Order*, 30 FCC Rcd at 7512-16, paras. 42-52.

⁷⁰ 47 CFR § 1.2110(c)(2)(ii)(J).

⁷¹ 47 CFR § 1.2110(c)(2)(ii)(J)(1)-(2).

⁷² See 47 CFR §§ 1.2110(j), 1.2112(b)(2)(vii).

1. Select “**Yes**” on the page asking if you intend to seek a tribal lands bidding credit.
2. On the “Seek Tribal Lands Bidding Credit” page, indicate each license within each market for which credit is sought by selecting the appropriate box.⁷³
3. Click “**Save**”
4. Click “**Continue**”
5. ULS is not currently programmed to interactively process tribal lands bidding credits by county. Thus, applicants will need to take some additional steps if requesting the tribal lands bidding credit. Accordingly, on the “Seek Tribal Lands Bidding Credit” page, applicants should:
 - At the bottom of this page, select “**Add.**” This action will bring up a new screen.
 - Identify the tribal land.
 - Enter the square kilometers of the additional area in the next field. ULS will not validate the area entered interactively and instead, FCC staff will review it manually.
 - By clicking “**Calculate,**” ULS will calculate the amount of the bidding credit based on the square kilometers claimed, which FCC staff will review. If corrections are necessary, the amount of the credit will be revised accordingly.
 - If applicant encounters difficulties using the form fields, applicant should file an exhibit that describes the difficulties and duplicates the information requested on Schedule B of the application with respect to Tribal Lands Bidding Credit, including market designator, market name, channel block, tribal land, square kilometers, and calculated credit.

Additional information regarding tribal lands bidding credits is available via the “**Tribal Lands Credits**” link on the FCC Auctions website (<https://www.fcc.gov/auctions>). Applicants should also review the Commission’s rulemaking proceeding regarding tribal lands bidding credits and related public notices.⁷⁴

Any applicant that intends to apply for a tribal lands bidding credit in one or more markets must do so by the filing deadline for the FCC Form 601 (i.e., before **6:00 p.m. Eastern Time (ET) on February 14, 2019**). While an applicant will not be permitted to amend its application after the filing deadline to indicate that it intends to seek a tribal lands bidding credit for any market, an applicant must update an

⁷³ See 47 CFR §§ 1.2107(e), 1.2110(f)(3).

⁷⁴ See *Extending Wireless Telecommunications Services to Tribal Lands*, Third Report and Order, 19 FCC Rcd 17652 (2004) (*Tribal Lands Third Report and Order*); Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 4775 (2003); Report and Order and Further Notice of Proposed Rule Making, 15 FCC Rcd 11794 (2000) (*Tribal Lands Report and Order*); *Wireless Telecommunications Bureau Announces Enhancements to the Universal Licensing System to Help Winning Bidders of FCC Auctions File for Tribal Land Bidding Credits*, Public Notice, 16 FCC Rcd 5355 (WTB 2001); *Wireless Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands*, Public Notice, 15 FCC Rcd 24838 (WTB 2000) (*Tribal Lands Public Notice*); *Wireless Telecommunications Bureau Announces Availability of Bidding Credits for Providing Wireless Services to Qualifying Tribal Lands: Tribal Land Bidding Credits to be Available Beginning in Auction No. 36 (800 MHz Specialized Mobile Radio (SMR) Lower 80 Channels) and in Future Auctions*, Public Notice, 15 FCC Rcd 18351 (WTB 2000). For more information on which tribal lands are in each geographic area, go to the Auction Website at <https://www.fcc.gov/auctions> and click on “Tribal Lands Credits,” then click on “Orders,” “Public Notices,” and “Cross References.”

application if it no longer intends to seek a tribal lands bidding credit in a particular market by deleting the request from its FCC Form 601 at a later date.

An applicant that indicates that it intends to serve a qualifying tribal land in any market(s) listed on its application will have an additional 180 days after the FCC Form 601 deadline within which to secure the necessary certifications from tribal authorities.⁷⁵ Within this 180-day period, the applicant must amend its FCC Form 601 to: (1) select the tribal lands to be served; (2) provide the requisite tribal government certifications; and (3) certify that it will, among other things, comply with the construction requirements set forth in Section 1.2110(f)(3)(vii) of the Commission's rules.⁷⁶ An applicant may provide the certifications when initially filing the FCC Form 601, or after the filing window, within the 180-day period, by re-entering ULS and updating its FCC Form 601 to provide the certifications. (See "Updating the Tribal Lands Information through Electronic Filing," below.)

B. Updating the Tribal Lands Information through Electronic Filing

To update an FCC Form 601 during the filing window (i.e., before it has been submitted to the FCC), see "Updating an FCC Form 601" in Section II, above. To update an FCC Form 601 application for tribal lands certification after it has been officially received by the Commission (i.e., within the 180-day period after the FCC Form 601 deadline),⁷⁷ the applicant must re-enter ULS and follow these steps:

1. Access ULS through the Internet at <http://wireless.fcc.gov/uls>. Select the "**Online Filing**" button from this page.
2. At the "Log In" page, enter the applicant's FRN and password. Click "**Submit.**"
3. Choose the "**My Applications**" link from the left side of the page. Then choose the "**Pending Applications**" link.
4. Click on the file number of the application to view the "Application At a Glance" page. Click the "**Update**" link from the "Work on This Application" menu on the right side of the page to access FCC Form 601.
5. Proceed through the application pages using the "**Continue**" button at the bottom of each page until you reach the "Tribal Lands Secured Certifications" page. Answer "**Yes**" to the question on this page and provide an attachment using the "Attachments" link at the top of the page. For each market where a tribal lands bidding credit is being sought, the applicant must attach: (1) a signed, tribal government certification from each of the federally-recognized tribal governments, and (2) an applicant certification.⁷⁸ After attaching the signed certifications, click "**Continue.**"
6. For each market contained in the application where the applicant indicated an intent to serve tribal lands, a "Select Tribal Lands" page will be presented. To add a new federally-recognized tribal land to this market, select "**Add.**" This action will bring up a new screen. Identify the

⁷⁵ 47 CFR § 1.2110(f)(3)(ii).

⁷⁶ 47 CFR § 1.2110(f)(3)(ii); *see also* 47 CFR § 1.2110(f)(3)(vii).

⁷⁷ *See* 47 CFR § 1.2110(f)(3)(ii).

⁷⁸ Refer to the guidelines described below for Exhibit Y: Tribal Government Certification and Exhibit Z: Tribal Lands Bidding Credit Applicant Certification to properly attach the certifications.

tribal land. Enter the square kilometers of the additional area in the next field. ULS will not validate the area entered interactively and instead, FCC staff will review it manually. Select the checkbox for each tribal land you want to include in your request and for which you have the tribal government certifications and then click “**Calculate**” to see the credit amount you may be granted. ULS will calculate the amount of the bidding credit based on the square kilometers claimed, which FCC staff will review. If corrections are necessary, the amount of the credit will be revised accordingly.

7. The “Tribal Lands Bidding Credit Summary” page will display the calculated credit and any additional credit requested for each license. Click “**Continue.**”
8. If requesting a tribal lands bidding credit in more than one market, repeat steps 6 and 7 above for each market.
9. Proceed through the remainder of the application pages using the “**Continue**” button at the bottom of each page to the “Certification” page. Certify your application and select “**Submit Application.**” After the application has been submitted, a Confirmation page displays the file number. Applicants should print a copy of the Confirmation page for their records by choosing the “Print” option from the “File” menu of the Web browser. Applicants can also print a copy of their complete application by selecting the “Reference Copy” link. Use the “**Log Out**” link at the top left of the page to exit ULS online filing.

ULS will calculate the bidding credit amount for each market automatically, according to the size (in square kilometers) of the tribal territory within the market, and in compliance with the bidding credit limit.⁷⁹ If multiple spectrum blocks are won in the same market, the winning bid amounts for the spectrum blocks serving tribal lands will be aggregated and the bidding credit limit will be applied against the aggregated amount.⁸⁰ All winning bidders, including those winning bidders that apply for a tribal lands bidding credit, must pay the full amount shown in the “Final Balance Due by March 1, 2019 or (Refund)” column in Attachment B to the confidential results letter sent to each winning bidder.⁸¹ If an applicant’s request for a tribal lands bidding credit is approved, the Commission will contact the applicant to discuss how the tribal lands bidding credit will be applied.

If the applicant is seeking a tribal lands bidding credit in excess of the amount calculated pursuant to Commission rule Section 1.2110(f)(3), the applicant must submit a waiver request, pursuant to Section 1.925 of the Commission’s rules, as discussed below in Exhibit X: Tribal Lands Bidding Credit Waiver Requests.⁸²

⁷⁹ See 47 CFR § 1.2110(f)(3)(iii)-(v).

⁸⁰ *Tribal Lands Public Notice*, 15 FCC Rcd at 24839.

⁸¹ See note 2, above.

⁸² See *Tribal Lands Report and Order*, 15 FCC Rcd 11805, para. 29; 47 CFR § 1.925.

1. Exhibit X: Tribal Lands BIDDING CREDIT Waiver Requests

Request for Additional Tribal Lands Bidding Credit. If the applicant is seeking a tribal lands bidding credit in excess of the amount calculated according to Commission rule Section 1.2110(f)(3),⁸³ the applicant must submit a waiver request within the 180-day period after the FCC Form 601 filing deadline, pursuant to Section 1.925 of the Commission's rules.⁸⁴ These waiver requests are subject to the percentage cap on tribal lands bidding credits, and waivers will not be granted in excess of the applicable cap. This waiver request must demonstrate that the infrastructure costs exceed the amount of the standard bidding credit as calculated by ULS. The applicant will need to supply a detailed showing of the projected infrastructure costs, including a certification by an independent auditor that the estimated costs are reasonable. Each tribal lands bidding credit waiver request should be attached separately by selecting Attachment Type "**Tribal Lands Waiver Request.**" In the "Description" field, enter the name of the attachment along with the market and tribal lands to which the waiver request pertains, e.g., "**Exhibit X: Tribal Lands Waiver Request for C04025-L1, Yavapai, AZ.**" Each waiver request will be evaluated on a case-by-case basis.

2. Exhibit Y: Tribal Government Certification

Within the 180-day period after the FCC Form 601 filing deadline, an applicant seeking a tribal lands bidding credit must amend its FCC Form 601 to select the tribal lands it intends to serve and to provide the required tribal government certifications for each tribal land selected.⁸⁵ The tribal government certifications **must be signed** by an officer, allotment owner(s), or corporate officer of the tribal land, Indian allotment, or Alaska Native land, respectively, and uploaded as an Adobe® PDF file. Each tribal government certification should be attached separately by selecting Attachment Type "Tribal Government Certification". In the "Description" field, enter the name of the attachment along with the market and tribal lands to which the certification pertains, e.g., "**Exhibit X: Tribal Lands Waiver Request for C04025-L1, Yavapai, AZ.**"

A tribal government certification must state that:

1. The tribal area to be served by the winning bidder is a qualifying tribal land because it is a federally-recognized Indian tribe's reservation, Pueblo, Colony, Alaska Native region, or Indian allotment and has a wireline telephone penetration rate at or below eighty-five (85) percent according to the U.S. Census;⁸⁶
2. The tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide service on the qualifying tribal land;⁸⁷ and

⁸³ 47 CFR § 1.2110(f)(3).

⁸⁴ 47 CFR § 1.925; *see also Tribal Lands Report and Order*, 15 FCC Rcd at 11805, para. 29.

⁸⁵ 47 CFR § 1.2110(f)(3)(ii)(A).

⁸⁶ 47 CFR § 1.2110(f)(3)(i), (ii)(2); *see also generally Tribal Lands Third Report and Order*. Penetration rate information based on U.S. Census data is available at: www.fcc.gov/tribal-lands-bidding-credits.

⁸⁷ 47 CFR § 1.2110(f)(3)(ii)(3).

3. The tribal government will permit the applicant to site facilities and provide service on its tribal land.⁸⁸

3. Exhibit Z: TRIBAL LANDS BIDDING CREDIT Applicant Certification

Within the 180-day period after the FCC Form 601 filing deadline, an applicant seeking a tribal lands bidding credit must attach a certification stating that it will comply with the build-out requirements set forth in Section 1.2110(f)(3)(vii) of the Commission's rules and that it will consult with the tribal government regarding the siting of facilities and deployment of service on the tribal land.⁸⁹

V. FCC FORM 602 – OWNERSHIP DISCLOSURE INFORMATION

Each applicant must have a current FCC Form 602 on file with the Commission before **6:00 p.m. Eastern Time (ET) on February 14, 2019**, the deadline for filing the FCC Form 601,⁹⁰ and is responsible for ensuring that the information is complete and accurate. If an applicant has a complete and accurate FCC Form 602 on file in ULS, it is not necessary for the applicant to file a new FCC Form 602, but the winning bidder must certify in its FCC Form 601 application that the information on file with the Commission is complete and accurate.

If the applicant does not have an FCC Form 602 on file or it is not current, the applicant must file a new or updated FCC Form 602. If an FCC Form 602 needs to be filed, ULS can pre-fill the FCC Form 602 with the applicable ownership information from the applicant's FCC Form 175. The applicant should confirm that the Ownership Disclosure information that is copied into the FCC Form 602 is complete and accurate.⁹¹ Applicants are reminded that any updates to FCC Form 602 must be filed electronically.⁹²

A. Step-by-Step Instructions for Filing FCC Form 602

1. Access the ULS homepage, <http://wireless.fcc.gov/uls>, and click the "Log In" button in the Online Filing section.
2. On the next page, enter the FRN and password of the filer and select "Continue." The "ULS Online Systems" page will appear. **Note:** If the Applicant listed on FCC Form 601 is listed as the filer on the Ownership filing, provide the same FRN as provided on FCC Form 601.
3. Click the "My Ownership Disclosure Information" link in the left-hand Task menu.
4. On the "My Ownership Disclosure Filing" page, you will see the Ownership Disclosure Filing created with the submission of the FCC Form 175 marked with a red dot. Select the "Filer Name" link to update any of the ownership information and file the FCC Form 602.

⁸⁸ 47 CFR § 1.2110(f)(3)(ii)(2).

⁸⁹ See 47 CFR § 1.2110(f)(3)(ii)(B), (vii).

⁹⁰ See 47 CFR §§ 1.919, 1.2107(f).

⁹¹ See 47 CFR §§ 1.919, 1.2112.

⁹² 47 CFR § 1.913(b); see also *Wireless Telecommunications Bureau Reminds Filers of Effective Date for Mandatory Electronic Filing of FCC Form 602*, Public Notice, 17 FCC Rcd 22934 (2002). For more information on FCC Form 602, see *Wireless Telecommunications Bureau Announces Revised Version of FCC Form 602 is Now Available*, Public Notice, 17 FCC Rcd 16197 (2002), and *Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602*, Public Notice, 14 FCC Rcd 8261 (1999).

5. On the “Ownership Disclosure Filing” page that appears, select the “**Update Filing**” link in the “Work on this Filing” menu. The FCC Form 602 will pre-fill with the applicable ownership information from the FCC Form 175 filing.
6. The “Work on this Filing” menu will display several update options. This is your toolbox for performing actions on your ownership filing. Use the links as needed, to:
 - View and Edit Filer Information
 - Add a Disclosable Interest Holder of the Filer (corresponds to questions 1-9 on Schedule A)
 - Add an FCC Regulated Business of the Filer (corresponds to question 5 on the Main Form)
 - Add an FCC Regulated Business of a Disclosable Interest Holder (corresponds to question 10 on Schedule A)
 - Change the Filing Type
 - Certify the Filing
 - Change Cellular Cross Interest
7. Update necessary information, following the onscreen instructions and prompts. To complete your changes, select the “**Certify Filing**” button, which appears at the bottom of the appropriate “Ownership Filing” pages. When the FCC Form 602 filing is submitted successfully, a Confirmation page will display the filer’s FRN, the date of submission, and a file number for this filing. Any future reference to this filing must be made using this file number.

ULS Ownership Filing displays this Confirmation page for your records. We strongly recommend you print a copy of this page. You may print the Confirmation page by choosing the Print option from the File menu of your Web browser. You may also choose to print a copy of the complete FCC Form 602 by selecting the “Reference Copy” link.

Note: For additional instructions regarding electronic filing of FCC Form 602 ownership information, use the **Help** button, located on the top right of any page within the “Ownership Filing” pages.

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