

Tribal Lands Bidding Credits

Extending Wireless Services to Tribal Lands

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What Are Tribal Lands Bidding Credits?

- ◆ Tribal Lands Bidding Credits are credits given to winning bidders in Commission spectrum auctions who deploy facilities on and provide services to qualifying tribal lands.

Legal Authority

- ◆ Section 309(j) of the Communications Act (the “Act”) directs the Commission to design bidding systems that promote the rapid and efficient deployment of wire and radio communications “to all people of the United States.”

Qualifying Tribal Land

- ◆ A qualifying tribal land is:

Any federally recognized tribal area that has a wireline telephone penetration rate equal to or less than 70 percent.

Visit the auctions website at <http://wireless.fcc.gov/auctions/tribal/> for a listing of federally-recognized tribal lands.

Calculation and Credit Amount

- ◆ The bidding credit amount is tied to the level of infrastructure investment in qualifying tribal lands.
- ◆ Tying the credit to the infrastructure investment provides a correlation between the financial commitment made by the carrier to the deployment of facilities and the financial benefit derived in the auction.

Method of Calculation

- ◆ The Commission awards:
 - \$300,000 for the first 200 square miles (518 square kilometers) of qualifying tribal land; and
 - \$1500 for each additional square mile (2.59 square kilometers).

Bidding Credit Limit

- ◆ All credits will be subject to a maximum limit based on the gross bid amount for the license for which the credit is sought.
- ◆ Where the gross bid amount is \$1 million or less, the cap will be 50 percent of the gross bid.
- ◆ Where the gross bid amount is greater than \$1 million, but less than or equal to \$2 million, the cap will be \$500,000.
- ◆ Where the gross bid exceeds \$2 million, the cap will be 25 percent of the gross bid.

Increased Bidding Credits

- ◆ Pursuant to Section 1.925 of the rules, the Commission will entertain requests for a higher bidding credit where the applicant demonstrates that its infrastructure costs exceed the available credit under the formula.
- ◆ Such requests will be subject to the applicable bidding credit cap.

Applying for Tribal Lands Bidding Credits

- ◆ Applicants seeking tribal lands bidding credits should submit two applications:
 - one application should contain markets for which the applicant is seeking tribal lands bidding credits; and
 - the second application should contain markets for which the applicant is not seeking tribal lands bidding credits.

Applying for Tribal Lands Bidding Credits (continued)

- ◆ Applicants must indicate each market for which they seek tribal lands bidding credits on FCC Form 601, by the Form 601 filing deadline.
- ◆ Applicants will have 90 calendar days to amend their Form 601s and attach the required certifications.

Required Certifications

- ◆ Required certifications consist of:
 - Tribal Government Certification
 - Applicant Certification

Tribal Government Certification

- ◆ The Tribal Government must state that:
 - It will allow the applicant to site facilities and provide service on its tribal land(s), in accordance with our rules;
 - It has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate against any carrier; and
 - Its tribal land is a qualifying tribal land as defined by our rules, i.e. areas that have a telephone penetration rate at or below 70 percent.

Applicant Certification

- ◆ The applicant must certify that:
 - It will consult with the tribal government about siting facilities and providing service on its land; and
 - It will comply with the three-year buildout requirement.

Post-Auction Performance Requirements

- ◆ Section 309(j)(4)(B) of the Act directs the Commission to “include performance requirements, such as deadlines and penalties for performance failures, to ensure the delivery of service...”

Construction Requirement

- ◆ In order to verify compliance with the tribal lands buildout requirement, licensees are required to file a notification of construction (FCC Form 601, Schedule K) at the conclusion of the three-year buildout period, stating that they have constructed and are operating a system that covers 75 percent of the population of the qualifying tribal land.

Repayment

- ◆ If the certification is not filed or if the buildout requirement is not met, the licensee must repay the bidding credit amount plus interest.
- ◆ Repayment is due 30 days after the conclusion of the three-year buildout requirement.

Further Information

◆ See:

- 47 C.F.R. § 1.2110(f)(3).
- Winning Bidder/Closing Public Notice
- Auction Website www.fcc.gov/wtb/auction

◆ Contact:

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THE END

