

Applications Due September 9 for FCC Auction of 3,400 MHz of Spectrum

June 21, 2019

The Federal Communications Commission has released a [draft notice](#) on proposed auction procedures for the December 9 auction of 3,400 MHz of spectrum in the 37, 39 and 47 GHz bands. If, as expected, the draft notice is approved, **applications to participate will be due on September 9**. The FCC will vote on the procedures on July 10.

- Up to thirty-four 100 MHz blocks of spectrum in each of 416 license areas (known as partial economic areas or PEAs), up to 24 blocks in the 37/39 GHz band and 10 blocks in the 47 GHz band will be available in the auction.
- Some auction proceeds will be used to pay incumbent licensees to relinquish their rights in the 39 GHz band. Incumbents that do not relinquish their rights will be relocated within the band to maximize the number 100 MHz blocks available. The number of 100 MHz blocks available in a PEA will depend on how many incumbent licensees remain in the PEA.
- The auction will be conducted in two phases – first to determine winning bidders for the spectrum blocks in each PEA and then to assign specific blocks to winning bidders. As part of the first phase, the FCC will set a minimum revenue requirement, based on the money required to pay incumbents that are giving up their licenses. If the total bid amounts at the end of this phase do not reach this minimum, the auction will end with no licenses awarded.
- The first phase will be a clock auction for generic spectrum blocks within each PEA. The FCC will set opening minimum bids and bidders will specify the PEAs where they wish to bid and the number of blocks they are bidding on at prices set by the FCC in each round. The price for each block will increase from five to 20 percent in each round. There will be simultaneous bidding in each PEA, with separate bidding for the 37/39 GHz blocks and the 47 GHz blocks. This phase of the auction will end when bidders stop placing higher bids for any blocks in all PEAs.
- The number of bids each bidder can place in the clock phase will be based on upfront payments made before the auction begins. The draft order sets the upfront payments at one-fourth of the amount originally proposed, which will make it easier to participate in the auction.
- The second phase will be a sealed-bid, single-round auction. Any winning bidder that wins two or more blocks in one of the bands (either 37/39 GHz or 47 GHz) in a PEA will be assigned a contiguous block of spectrum, and the sealed bids will be used to determine which bidders get their preferred blocks.
- Small businesses (defined as companies with \$55 million or less in average annual revenues) and entities that predominantly serve rural areas will be eligible for bidding credits capped at \$25 million and \$10 million, respectively.
- All parties that file initial auction applications – even if they do not bid – are subject to anti-collusion rules that severely limit communication with other auction applicants from when applications are filed to when the FCC announces winning bidders. The FCC also will apply the anti-collusion rules to any communications with AT&T, Sprint, T-Mobile and Verizon and to communications with incumbent licensees that have agreed to give up their spectrum.
- The FCC will accept applications to participate in the auction from August 26 to September 9 and upfront payments will be due on October 22.

Cooley experts can assist in evaluating how these proposed procedures will affect potential bidders and investors, in preparing auction applications and in preparing for the December spectrum auction.

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