

above), we believe allowing simultaneous closing for all BTA service areas will afford bidders flexibility to pursue back-up strategies without running the risk that bidders will refrain from bidding until the final rounds. We also believe that a simultaneous stopping rule will best enable bidders to take account of any interdependencies that exist between BTA authorizations (especially authorizations for adjacent areas) and will allow bidders to make the most informed bidding decisions. Thus, simultaneously closing bidding on BTA service areas will most likely award licenses to the bidders who value them most highly. See Second Report and Order at 2370.

93. Additionally, the Commission may also declare at any time after forty rounds that the MDS auction will end after a specified number of additional rounds. If the Commission invokes this stopping rule, it will accept bids in the final round(s) only for BTA service areas on which the high bid increased in at least one of the proceeding three rounds. See Second Report and Order at 2370 n.106. Stopping the MDS auction after a specified number of additional rounds will ensure ultimate Commission control over the duration of the action. See *id.* Thus, the Commission will have the means to prevent bidders from continuing to bid on a few BTA service areas (or even a single service area) solely to delay the closing of bidding for all BTA service areas in an MDS auction with a simultaneous stopping rule. This will also ensure that the Commission can end the MDS auction if it determines that the benefits from ending the auction, and hence granting BTA authorizations more rapidly, exceed the possible efficiency loss from cutting off bidding on a few BTA service areas. If we exercise this option, we favor the use of three final rounds. Allowing more than one additional round provides some opportunity for counter-offers, thus reducing the risk that a BTA authorization will not be awarded to the party that values it most highly.

94. If this fail-safe mechanism is used in an MDS auction, there are two reasons not to take bids on BTA service areas on which there has been no recent bidding. First, the fact that bidding on an individual BTA service area may close will provide an additional incentive to bid actively and thus speed the conclusion of the MDS auction. If bids are accepted on all BTA service areas in the final round(s) there is less risk to a bidder in holding back. Second, closing bidding on BTA service areas for which activity has ceased ensures high bidders for those service areas that they

will not lose a BTA authorization without having an opportunity to make a counter-offer.⁴⁶ This reduces the uncertainty associated with aggregating BTA authorizations (such as those for adjacent BTAs) that may be worth more as a group than individually. If final bids are accepted on all BTA service areas, a high bidder on an aggregation of BTA service areas may unexpectedly lose a significant part of the aggregation and have no chance to regain it except in the post-auction market, where bargaining or other transaction costs may be high.

95. The Commission does not intend to exercise this option except in extreme circumstances, such as where the MDS auction is proceeding very slowly, there is minimal overall bidding activity, and it appears unlikely that the auction will close within a reasonable period of time. Before exercising this option, however, the Commission would first attempt to increase the pace of the auction by announcing that the auction will move into the next stage, where bidders would be required to maintain a higher level of bidding activity. Under these circumstances, the Commission may also first increase the number of bidding rounds per day and increase the amount of the minimum bid increments for those limited number of BTA service areas where there is still a high level of bidding activity.

96. Additionally, because of the large number of BTA service areas to be auctioned at once, we will retain the discretion either to use a hybrid stopping rule to allow bidding to close individually for these service areas if, as we gain more experience with auctions, we determine that simultaneous stopping rules are too complex to implement for very large numbers of service areas. The specific stopping rule for ending bidding on the BTA service areas will be announced by public notice prior to the MDS auction.

5. Procedural and Payment Issues

97. Pre-Auction Application Procedures. The Second Report and Order established general rules and procedures for participating in auctions. Again, however, we noted that these might be modified on a service-specific basis. As described below, we have determined that we will follow for new

⁴⁶ Either the MDS auction will close only when bidding ceases on all BTA service areas, so the high bidder will have an opportunity to respond to any new bids, or the Commission will call for final bids but not accept new bids on BTA service areas on which there have been no new bids in the previous three rounds, so no other bidder will have the opportunity to outbid the high bidder in a final round.

MDS initial applications the procedural and payment rules established in the Second and Report and Order and set forth at 47 CFR Chapter I, Part 1, Subpart Q, with modifications to fit MDS. Certain procedural details will be supplied later by public notices. Our objective has been to design rules and procedures that will reduce administrative burdens and costs on bidders and the Commission, ensure that bidders and licensees are qualified and able to construct their systems, and minimize the potential for delay of service to the public. See 47 U.S.C. 309(j)(3)(A) (in designing auction rules, Commission should seek to promote development and rapid deployment of products and services for public benefit, without administrative or judicial delays).

98. Before an MDS auction, the Commission, or, pursuant to delegated authority, the Mass Media Bureau, in conjunction with the Wireless Telecommunications Bureau, will release public notices concerning the auction. The public notices will specify the BTA service areas to be auctioned, the filing deadline for short-form applications, and the time, place and method of competitive bidding to be used, as well as applicable bid submission and payment procedures.

99. Applicants will be required to submit short-form applications by the date specified by public notice. Applicants should file a short-form application identifying all BTA service areas specified by the public notice in which they are interested in bidding.⁴⁷ If the Commission receives only one application that is acceptable for filing for the same BTA service area and thus there is no mutual exclusivity,⁴⁸ the Commission will by public notice cancel the auction for this BTA service area and establish a date for the filing of either an initial long-form application for an MDS station license or, for a heavily encumbered BTA, a statement of intention with regard to the BTA.⁴⁹

100. To encourage maximum bidder participation, we will provide applicants whose short-form applications are substantially complete, but which contain minor errors or defects, with an opportunity to correct

⁴⁷ As described in detail below, the short-form applications must also include an exhibit identifying any bidding consortia or other arrangements relating to the BTA service areas being auctioned. See *infra* ¶ 129.

⁴⁸ Absent mutually exclusive applications, the Commission is prohibited from conducting an auction. See 47 U.S.C. § 309(j)(1).

⁴⁹ See *infra* ¶¶ 116-120, for the procedures for filing either a long-form application for a station license or a statement of intention with regard to the BTA.