



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 11, 2015

The Honorable Claire McCaskill
United States Senate
506 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your letter regarding the results of the successful AWS-3 spectrum auction and your concerns about the FCC's designated entity (DE) program. I remain committed to providing bona fide small businesses a meaningful opportunity to participate in FCC spectrum auctions – including next year's incentive auction – while protecting the integrity of our auction program. We are revisiting our small business bidding rules in advance of the incentive auction.

In your letter, you specifically expressed concerns related to the participation of Alaska Native Corporations (ANCs) in the recent AWS-3 auction. Our rules governing participation by ANCs were initially put in place at the beginning of the auction program in 1994, and are based on rules promulgated by the Small Business Administration (SBA), including the SBA's general attribution rule pertaining to Indian tribes and ANCs.

Our competitive bidding rules must achieve the balance of objectives Congress established and reflect today's wireless marketplace realities. On a bipartisan basis, the Commission initiated a proceeding last October to revisit our competitive bidding rules prior to next year's historic incentive auction. The Notice of Proposed Rulemaking (NPRM) recognizes that the wireless industry has changed significantly since the Commission last comprehensively updated its competitive bidding rules in 2006. The NPRM's proposals specifically address the challenges new entrants face today, including raising capital to compete in an auction; finding a revenue stream to support network construction and business expansion; and developing a business model based on market needs. The NPRM also recognizes the challenge of entering the wireless marketplace, in which today more than 95 percent of existing customers are served by the top four providers, which combined serve approximately 300 million customers.

At the same time, our rules must preserve the integrity of the Commission's auction process and ensure that bidding credits are available only to eligible entities. The NPRM therefore seeks comment on a broad range of questions about the efficacy of both our existing and proposed new rules intended to safeguard the award of small business benefits.

We are keenly aware that we must also look to "lessons learned" from Auction 97, the recently-concluded AWS-3 auction. Public input, in addition to ongoing staff review of bidding data from that auction, will inform any changes to our current rules that I may present to my

fellow Commissioners for consideration in the coming months, and before the incentive auction commences. We extended the Competitive Bidding NPRM comment deadline three times so that interested parties could take into account lessons learned from Auction 97 as they advocate for maintaining or modifying rules that will apply in future auctions, including the incentive auction. Initial comments were due on February 20, and replies were due March 6. If necessary, we will solicit additional public input potentially including questions concerning bidding credits for ANCs to ensure that we have a strong record on which to base our conclusions.

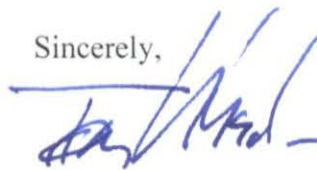
Prior to issuing licenses to winning bidders in Auction 97, we will thoroughly review and scrutinize each application to ensure that granting each license is in the public interest and that each applicant has complied with the Commission's rules, including the rules pertaining to Indian tribes' and ANCs' eligibility for bidding credits. During this process, staff frequently requests additional, specific information from winning bidders to address questions about applicable business relationships and agreements. I assure you that we take seriously concerns that parties may seek to capitalize on our rules in order to receive benefits intended for small businesses or to game the auction process. We will not grant licenses to any party that does not strictly adhere to our rules and precedents.

As part of our standard process, prior to the grant of any license, staff also makes the applications public. There is then an opportunity for interested parties to submit Petitions to Deny if they believe we should not grant certain applications, including any requests for bidding credits. We will carefully consider any such petitions as part of our application review.

Again, I am committed to providing innovative, bona fide small businesses the opportunity to participate meaningfully in spectrum auctions, and to spur additional competition, investment and consumer choice in the wireless marketplace. Our competitive bidding rules must be carefully crafted and vigorously enforced to protect the integrity of our auction program. We will review our Competitive Bidding NPRM proposals and public comments we receive, including your letter, with these goals in mind.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a horizontal line underneath it.

Tom Wheeler