

FHH Telecom Law

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In Brief

What if you held an auction and nobody came? The FCC recently had to announce the cancellation of its scheduled auction of a few 400 MHz air-ground licenses. The potential bidder pool was restricted to companies who had filed mutually exclusive applications for these frequencies many years ago. When it came time to file short forms indicating interest in bidding on the licenses, nobody bothered to show up. Interestingly, if only one potential bidder had filed a short form, he would have gotten the licenses for free.

The government works in mysterious ways. The FCC issued a Public Notice explaining how potential users of the AWS band to be auctioned in June can determine who in the federal government is using the spectrum. Heretofore, it had been difficult to figure out what use was being made of the spectrum allocated to the federal government, information which is necessary to plan band-clearing timetables and resolve potential problems. The PN provides a website where interested parties can find location, frequency, service type, relocation timetable, and contact information which will be very useful in assessing whether government users occupy the band you're thinking about buying and when they are likely to vacate. The information can be found at <http://www.ntia.doc.gov/osmhome/reports/spcrelo/index.htm>.

Channel 1 and Channel 2, where are you? In a companion to the BRS/EBS Order (*see* article on page 1), the FCC clarified the relocation obligations of AWS licensees who acquire spectrum now assigned to MDS channel 1 and 2 licensees as well as fixed microwave licensees in the adjacent bands. The plan calls for a clearinghouse similar to that established for the PCS relocation process. The initial AWS licensee who clears the band must provide comparable facilities to the operating licensees who must vacate, and it must maintain a record of the costs it incurs in doing so. Later entering AWS licensees who use the same spectrum must then reimburse the original clearer for their share of the costs.