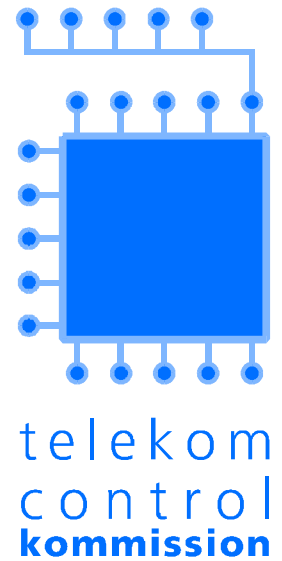


**Telekom-Control Commission**

**Mariahilferstrasse 77-79**

**A-1060 Vienna, Austria**

**K 15/00**



**Rules of Procedure (§ 49a par. 7 TKG)**

**Auction Procedure for Frequency Allocations  
for 3<sup>rd</sup>-Generation  
Mobile Communications Systems (UMTS/IMT-2000)**

**NON BINDING TRANSLATION**

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# 1 Frequency Auction

## 1.1 General Information

The auction will be carried out in an open, ascending, simultaneous, multiple-round format.

In Stage I of the auction, 12 frequency packages of 2x5 MHz<sup>1</sup> each in the paired range will be auctioned off. The maximum number of packages a bidder can acquire in this stage is limited by the number of bidding rights the bidder was granted upon application for the frequency packages (provided that the bidder was not excluded from participating in the auction). Bidders who do not acquire any frequency packages or only one frequency package in this stage will be eliminated from the procedure and will not be eligible to participate in Stage II. If such a bidder holds the standing high bid for one of the frequency packages in the last round of the auction procedure, the package will be auctioned off once again.

Bidders who applied for frequency packages in Stage II of the auction procedure and acquired at least 2 frequency packages in Stage I will be eligible to participate in Stage II of the auction. In Stage II, 5 frequency packages of 5 MHz each in the unpaired range, as well as those frequency packages in the paired range that were not allocated in Stage I, will be auctioned off. The maximum number of frequency packages that can be acquired by bidders in this stage is again determined by the information given in their applications.

The bank guarantees presented by the applicants along with their application documents will serve as security for all bids submitted by the respective applicants. Additional security will not be requested.

The auction will be carried out at a central location that is yet to be announced. Bids will be submitted by means of a software application. Unless a preliminary auction takes place, the auction is scheduled to begin on November 2, 2000.

The auctioneer will be a member of the Telekom-Control Commission, charged with this duty by the Commission itself. The Telekom-Control Commission can also assign the duties of the auctioneer to the managing director or employees of Telekom-Control GmbH.

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<sup>1</sup> Due to the necessity of buffer channels, some frequency packages may have a bandwidth of less than 5 MHz (cf. Tender Documentation).

## 1.2 Auction Rules (Stage I)

### A. Objects of the Auction

- A.1. 12 frequency packages of 2x5 MHz each in the paired range will be auctioned off in this stage (cf. Sections 4.2. and 4.5.3. of the Tender Documentation). These abstract frequency packages will be labeled as follows for the purposes of the auction procedure:

Name	Characteristics
P01	2 x 5 MHz
P02	2 x 5 MHz
P03	2 x 5 MHz
P04	2 x 5 MHz
P05	2 x 5 MHz
P06	2 x 5 MHz

Name	Characteristics
P07	2 x 5 MHz
P08	2 x 5 MHz
P09	2 x 5 MHz
P10	2 x 5 MHz
P11	2 x 5 MHz
P12	2 x 5 MHz

### B. Eligibility and Bidding Rights

- B.1. All applicants who are not excluded from the frequency allocation procedure under Section 49a par. 6 TKG nor eliminated in the course of the preliminary auction concerning affiliated companies will be admitted to the auction.
- B.2. In the first round of Stage I of the auction process, bidders admitted to the frequency auction will receive one bidding right for each frequency package applied for. The number of bidding rights granted for later rounds will be based on the rules of activity.
- B.3. Each bidder will be obliged to submit valid bids in the first round (cf. E.1 and E.5) for the number of frequency packages applied for. If this is not the case, the auctioneer will place these bids in that bidder's name. If this is the case with two or more bidders, the sequence in which the bids are placed will be decided by random drawing.
- B.4. The applicant will be bound to the bid placed (both the amount and number of packages) for the frequency packages in the application for Stage I, or to the standing high bid resulting from the preliminary auction to eliminate affiliated companies, until the round of the auction in which a standing high bid exists for each frequency package (cf. H.4).

**C. Rules of Activity**

- C.1. Each bid shall be placed for a specific frequency package. According to the rules of activity and bidding rights, bidders will have the free choice of which frequency package they bid on. This does not apply to bidders who placed the standing high bid for frequencies in the previous round. In such cases, these bidders can place a higher bid for the relevant frequency packages but may not use these bidding rights to bid on any other frequency packages.
- C.2. In order to remain active and not to be disqualified from the auction, each bidder will be required to submit active bids for at least two frequency packages.
- C.3. A bid will be considered active for a specific frequency package when it is the high bid for that package from the previous round, or when it is placed in the current round and is considered a valid bid for the given package.
- C.4. In each round, bidders will be allowed to submit active bids for a limited number of frequency packages only. For each bidding right, one active bid may be submitted for one frequency package.
- C.5. If a bidder does not make use of a bidding right in one round of the auction, the bidding right will expire. This means that the maximum number of active bids a bidder can submit in one round can be no larger than the number of active bids placed by that bidder in the previous round.

**D. Standing High Bids**

- D.1. In order to determine the standing high bid for a specific frequency package in a given round of the auction, all active bids submitted for that round for the given frequency package will be evaluated. The highest of these bids shall be the standing high bid for the given frequency package.
- D.2. If two or more standing high bids in the same amount are placed for a frequency package in the same round, the bid which was received earlier/earliest will be considered the standing high bid.
- D.3. The obligations arising from a bid shall be considered void as soon as a new standing high bid has been placed for the respective frequency package.

**E. Valid Bids**

- E.1. In the first round of Stage I of the auction process, a bid (opening bid) shall only be considered valid if it is not lower than the bid specified by the bidder in his application.
- E.2. In all later rounds, a bid will only be considered valid if it exceeds the standing high bid from the previous round by at least the minimum bid increment. If no bid has been submitted for a specific frequency package yet, then the opening bid defined in Rule E.1 will be considered a valid bid.
- E.3. A bid will only be considered valid if it is a whole multiple of ATS 1 million.
- E.4. In no round of this stage may bidders submit bids that are lower than the frequency license fee named in the application for a paired frequency package. Bids that are lower will not be considered valid.

- E.5. If a bidder participates in (one of) the preliminary auction(s) to eliminate affiliated companies and is the standing high bidder at the end of that (those) auction(s), then the bidder can not submit any bids in Stage I that are lower than the standing high bid submitted in the auction to eliminate affiliated companies. Bids that are lower will not be considered valid.
- E.6. A bid will likewise only be considered valid if it is submitted within the time period defined by the auctioneer for the given round.

#### **F. Minimum Increment**

- F.1. The minimum bid increment will be between 2% and 10% of the standing high bid, rounded to a whole multiple of ATS 1 million. Minimum bid increments will be set by the auctioneer at the beginning of each round and communicated to the active bidders as absolute numbers.
- F.2. It is planned that the minimum bid increment will be set using the following scheme:
- In Phase 1 of the auction: 10%
  - In Phase 2 of the auction: 5%
  - In Phase 3 of the auction: 2%

#### **G. Information Disseminated to the Bidders**

- G.1. After the close of each round, the auctioneer will disseminate the following information concerning that round to the active bidders:
- The standing high bid and the identity of the high bidder for each frequency package
  - The active bids placed by active bidders<sup>2</sup>
  - The bidders eliminated in that round
- G.2. At the beginning of each round, the auctioneer will communicate the information from the previous round indicated under F.2 to each active bidder, as well as the following:
- The amount of the absolute minimum bid increment for each frequency package
  - The time period allotted for the round
  - The phase of the auction
  - The number of bidding rights and standing high bids currently held by the bidder

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<sup>2</sup> In cases where a bidder holds the standing high bid for a certain frequency package from the previous round and places a valid bid for the same frequency package in the current round, only the bid from the current round will be indicated.

## H. End of Stage I

- H.1. Stage I of the auction will be concluded when no valid bids are submitted for any of the frequency packages in a given round.
- H.2. The active bidders will be awarded licenses in accordance with their standing high bids, as long as they have submitted the standing high bid for at least two of the frequency packages.
- H.3. If a bidder holds the standing high bid for only one frequency package at the end of Stage I, the package will not be allocated; instead, it will be auctioned off again in Stage II of the auction. Accordingly, the obligations arising from the bid will be considered void for that bidder.
- H.4. If no standing high bid exists for one or more frequency packages at the end of the last round, the frequency packages will be allocated among those bidders who did not acquire frequency packages in accordance with their applications. Packages will be allocated primarily to those applicants who submitted the standing high bid in their applications or in the preliminary auction for affiliated companies. If all of the bids are in the same amount, allocation will be decided upon by random drawing.

## 1.3 Auction Rules (Stage II)

### A. Objects of the Auction

- A.1. Four abstract frequency packages in the unpaired frequency range, a concrete frequency package in the unpaired range and a number of abstract frequency packages in the paired frequency range (depending on the results of Stage I) will be put up for auction in this stage (cf. Sections 4.2. and 4.5.3 of the Tender Documentation). The frequency packages in the unpaired range will be labeled as follows for the purposes of the auction process:

Name	Characteristics
U01	1 x 5 MHz
U02	1 x 5 MHz
U03	1 x 5 MHz
U04	1 x 5 MHz
U05K	1 x 5 MHz (concrete)

The frequency packages from the paired range will be labeled as in Stage I.

**B. Eligibility and Bidding Rights**

- B.1. Those applicants who acquired at least 2 frequency packages in Stage I of the auction will be admitted to this stage.
- B.2. In the first round of Stage II of the auction process, bidders admitted to the frequency auction will receive one bidding right for each frequency package applied for. The number of bidding rights granted for later rounds will be based on the rules of activity.
- B.3. The applicant will be bound to the bid placed (both the amount and number of packages) in the application for the frequency packages applied for in Stage II until the round of the auction in which a standing high bid exists for each frequency package (cf H.3).

**C. Rules of Activity**

- C.1. Each bid shall be placed for a specific frequency package. Bidders will be free to choose which frequency package they submit bids for in accordance with the rules of activity, their bidding rights and the number of paired/unpaired frequency packages applied for in Stage II. This does not apply to bidders who placed the standing high bid for frequencies in the previous round. In such cases, these bidders can place a higher bid for the relevant frequency packages but may not use these bidding rights to bid on any other frequency packages.
- C.2. In order to remain active and not disqualify from the auction process, each bidder will be required to submit an active bid for at least one frequency package.
- C.3. A bid will be considered active for a specific frequency package when it is the high bid for that package from the previous round, or when it is placed in the current round and is considered a valid bid for the given package.
- C.4. In each round, bidders will be allowed to submit active bids for a limited number of frequency packages only. For each bidding right, one active bid can be submitted for only one frequency package; bids can not be submitted for a number of paired/unpaired frequency packages that is larger than the number applied for.
- C.5. If a bidder does not make use of a bidding right in one round of the auction, the bidding right will expire. This means that the maximum number of active bids a bidder can submit in one round can be no larger than the number of active bids placed by that bidder in the previous round.

**D. Standing High Bids**

- D.1. In order to determine the standing high bid for a specific frequency package in a given round of the auction, all active bids submitted for that round for the given frequency package will be evaluated. The highest of these bids shall be the standing high bid for the given frequency package.
- D.2. If two or more standing high bids in the same amount are placed for a frequency package in the same round, the bid which was received earlier/earliest will be considered the standing high bid.



D.3. The obligations arising from a bid shall be considered void as soon as a new standing high bid has been placed for the respective frequency package.

#### **E. Valid Bids**

E.1. In the first round of Stage II of the auction process, a bid (opening bid) for a paired (unpaired) frequency package shall only be considered valid if it is not lower than the bid specified by the bidder in his application for a paired (unpaired) frequency package.

E.2. In all later rounds, a bid will only be considered valid if it exceeds the standing high bid from the previous round by at least the minimum bid increment. If no bid has been submitted for a specific frequency package yet, then the opening bid defined in Rule E.1 will be considered a valid bid.

E.3. A bid will only be considered valid if it is a whole multiple of ATS 1 million.

E.4. In no round of this stage may bidders submit bids for a paired (unpaired) frequency package that are lower than the frequency license fee named in the application for a paired (unpaired) frequency package. Bids that are lower will not be considered valid.

E.5. A bid will likewise only be considered valid if it is submitted within the time period defined by the auctioneer for the given round.

#### **F. Minimum Increment**

F.1. The minimum bid increment will be between 2% and 10% of the standing high bid, rounded to a whole multiple of ATS 1 million. Minimum bid increments will be set by the auctioneer at the beginning of each round and communicated to the active bidders as absolute numbers.

F.2. It is planned that the minimum bid increment will be set using the following scheme:

- In Phase 1 of the auction: 10%
- In Phase 2 of the auction: 5%
- In Phase 3 of the auction: 2%

## **G. Information Disseminated to the Bidders**

G.1. After the close of each round, the auctioneer will disseminate the following information concerning that round to the active bidders:

- The standing high bid and the identity of the high bidder for each frequency package
- The active bids placed by active bidders<sup>3</sup>
- The bidders eliminated in that round

G.2. At the beginning of each round, the auctioneer will communicate the information from the previous round indicated under G.1 to each active bidder, as well as the following:

- The amount of the absolute minimum bid increment for each frequency package
- The time period allotted for the round
- The phase of the auction
- The number of bidding rights and standing high bids currently held by the bidder

## **H. End of Stage II**

H.1. Stage II of the auction will be concluded when no valid bids are submitted for any of the frequency packages in a given round.

H.2. The active bidders will be awarded licenses according to their standing high bids.

H.3. If no standing high bid exists for one or more frequency packages at the end of the last round, the frequency packages will be allocated among those bidders who did not acquire frequency packages in accordance with their applications. Packages will be allocated primarily to those applicants who offered the highest amount. If all of the bids are in the same amount, allocation will be decided upon by random drawing.

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<sup>3</sup> In cases where a bidder holds the standing high bid for a certain frequency package from the previous round and places a valid bid for the same frequency package in the current round, only the bid from the current round will be indicated.

## **1.4 Authorized Bidders**

### **1.4.1 Announcement of Authorized Bidders**

Each applicant is to submit the following information to the regulatory authority in writing at least one week before the bidders' training seminar (cf. Section 1.9).

- The names of at least 2 and a maximum of 6 representatives of the applicant who are authorized to be present in the bidding rooms and to place legally binding bids on behalf of the applicant during the auction (cf. Appendix A). The authorization to represent the applicant is to be verified by a current excerpt from the Commercial Register, or by submitting documents granting the corresponding power of attorney.
- Indication of 2 telephone numbers for communication with the company's headquarters. The regulatory authority reserves the right to monitor and record these telephone calls on tape.
- Indication of a company name (maximum 15 characters) for the purpose of IT processing (otherwise the company name will be abbreviated).

### **1.4.2 Presence of Authorized Bidders**

Only those persons who have been authorized and can place legally binding bids for the applicants are allowed to enter the bidding rooms. The number of persons allowed in the bidding rooms is limited to 4 per applicant. All bids placed using the computer in the bidding room shall be considered legally binding bids for each respective applicant. Applicants are to guarantee that authorized representatives will be present throughout the auction procedure.

## **1.5 Equipment**

### **1.5.1 Equipment Provided by the Auctioneer**

The auction will be held in a venue rented by the regulatory authority. One room will be assigned to each team of bidders. Rooms will be assigned by random drawing. Each room will be equipped with the following:

- 1 desk with a computer
- 1 conference table
- 1 telephone
- 1 printer
- Fax connection

The bidding software necessary for the auction will be installed on each computer, and the operating system used will be Windows NT 4.0. The bidders will not be able to change various settings on the PC. In addition to the bidding software, a program for printing screenshots quickly will be provided as well. Each bidder will be given a manual for the installed software components during the bidders' training seminar.

Each applicant is to convey two telephone numbers to the regulatory authority at least one week before the bidders' training seminar. The telephone provided will be assigned these numbers.

### 1.5.2 Equipment Provided by the Bidders

The bidders are free to bring documents relevant to the auction procedure along with them to the auction. In addition, up to 3 laptops can be used. The laptops are to be handed over to the auctioneer at the bidders' training seminar and may not have a radio communications interface. The laptops will be inspected by specialists for this purpose. The software used by the bidders is to be installed before the laptops are handed over to the auctioneer. Bidders will be allowed to install devices to encrypt telephone calls to the company headquarters. Devices of this kind are to be handed over to the auctioneer at least one week before the bidders' training seminar.

Each bidder will likewise be allowed to use one fax machine for communication with the company's headquarters. Likewise, this machine is to be handed over to the auctioneer one week before the bidders' training seminar. The telephone number to be assigned to the fax machine must also be indicated.

Besides the devices mentioned above, bidders are not allowed to bring electronic devices into the auction rooms, especially devices for external communication. The auctioneer reserves the right to verify the adherence to this regulation by the appropriate means (inspection of bidding rooms by Telekom-Control GmbH employees, inspection of bags and documents brought to the auction, inspection of persons entering the bidding rooms, etc.).

## 1.6 Logistics of the Auction Procedure

### 1.6.1 Basics

Bids will be placed electronically using the auction software provided (cf. 1.6.2) The equipment necessary for this purpose will be provided by the regulatory authority. In addition, bidders will be provided with a telephone to communicate with the auctioneer. Should technical problems arise, the auctioneer will be responsible for deciding whether the auction is to be interrupted and the round repeated if necessary, or if bids can be placed over the telephone by the bidder who encountered the technical problems (cf. 1.6.3 for more information on this procedure).

The auctioneer can interrupt the auction (cf. 1.6.5) for a specified period of time or discontinue (cf. 1.8) the auction procedure entirely at any time.

### 1.6.2 Submissions of Bids using Software

At the beginning of each round, the information described in the Auction Rules (cf. 1.2 and 1.3) will be displayed to the bidders on their screens (bidding screens). This information includes in particular the period of time allotted for the current round, the current phase of the auction, the bidder's number of available bidding rights and the number of bidding rights tied up by a standing high bid, as well as a list of all frequency packages with their respective standing high bids, high bidders, minimum bid increments and minimum bids; the amount shown under minimum bid is the lowest possible valid bid.

Bids can be entered package by package by selecting the desired object (frequency package) and entering the bid amount for that package. The auction software performs a validation check for all bids submitted. When the bidder triggers the "Gebote absenden" action (send bids action) and confirms the verification message (in the case of invalid bids, various warnings will appear), the bids will be considered placed and binding. Warnings will also appear when the bids entered will cause the bidder to lose bidding rights or to be eliminated from the auction.

After the close of each round, the results of that round will be displayed to the active bidders (cf. Auction Rules, Sections 1.2 and 1.3) on the bidding screen.

### 1.6.3 Submission of Bids by Telephone

The submission of bids by telephone will only be permitted in exceptional cases (e.g., technical difficulties). In such cases, the auctioneer must be informed by telephone immediately. Calls placed after the end of the time period allotted for a given round will not be taken into consideration. The auctioneer will be responsible for deciding whether to interrupt the auction and repeat the round or to allow bids to be placed by telephone. In the latter case, the bidder that encountered the technical difficulties will be given a printed screen shot of the bidding screen, and the auctioneer will call the bidder back to take his/her bid once the given round has ended. Before the binding bid is dispatched, the bidder will receive a printed screen shot, which is to be signed by the authorized bidders.

### 1.6.4 Time Period Allotted per Round

The time period allotted per round will be between 20 and 40 minutes, determined by the auctioneer and conveyed to the bidders at the beginning of each round. The time remaining in each round will be displayed on the bidding screen (stopwatch). Bidders that have not submitted their bids 10 minutes before the end of each round will receive a warning to this effect.

A round is considered to come to an end when all active bidders have submitted their binding bids or when the time period allotted for the round is over. Bids placed after the close of the round will not be taken into consideration, with the exception of bids submitted by telephone (cf. 1.6.3).

A round is considered closed once the results of the round have been evaluated.

### 1.6.5 Interruptions of the Auction

The auctioneer can interrupt the auction at any time and continue it at a later point. If the auction is interrupted before the end of a round (e.g., due to technical difficulties), the current round will be repeated. The bids placed in that round will then be considered void and remain unannounced (even to the auctioneer). Interruptions will be displayed to the bidders on the bidding screen. In addition, the reason for and duration of the interruption will be conveyed to the bidders in writing.

### 1.6.6 Access to the Auction Rooms, Auction Times

During the auction, bidders will have access to their assigned rooms from 8:00am to 7:00pm. Between 6:00pm and 7:00pm, the auction rooms will be cleaned. The bidders are free to be present or absent at this time. At 7:00pm, the rooms will be locked and sealed. On the next day, the rooms will not be opened until the respective bidders are present (between 8:00am and 8:30am at the latest). Between 8:30am and 8:45am, IT equipment will be checked.

The auction will take place at the following times: Monday–Saturday, 9:00am to 6:00pm. A one-hour lunch break will be provided between 12:00pm and 2:00pm. Bidders will be informed as to the beginning of the lunch break in writing.

The auctioneer reserves the right to change this schedule if necessary or appropriate. Bidders will be informed as to changes of this sort in due course.

Access to bidding rooms is restricted to authorized persons only. The presence of an employee of the regulatory authority in the rooms is allowed at any time. Should bidders wish to leave their rooms for a short time (e.g., to use the rest rooms), they must report this to the auctioneer and be supervised by an employee of the auctioneer while outside the bidding room. If a bidder leaves the auction rooms, s/he will not be allowed to re-enter the auction rooms until the next day.

### 1.6.7 Communication Equipment

Bidders will be provided with a telephone to communicate with the auctioneer. Bidders will be able to communicate with their company headquarters by telephone and fax (cf. Section 1.5).

## **1.7 Collusion and Influence**

Any and all forms of cooperation among the applicants or their stakeholders, be it direct or indirect, with the intention of influencing the events or results of the auction (collusive behavior) are prohibited. If applicants cooperate in a collusive manner before or after the auction procedure, they may be excluded from the remainder of the procedure (§ 49a par. 7 TKG). The auctioneer shall have the right to take all appropriate measures to prevent collusive behavior.

Likewise, threats to competitors or the public announcement of bids or bidding strategies – even at any stage prior to the auction procedure – can result in exclusion from the procedure.

## **1.8 Discontinuation of the Procedure**

The Telekom-Control Commission shall have the right to discontinue the auction procedure if it detects collusive behavior among applicants and an efficient, fair and non-discriminatory procedure can not be carried out (§ 49a par. 12 no. 1 TKG), or if other significant reasons are found which endanger the proper execution of the auction procedure. In such cases, the Telekom-Control Commission will decide whether the procedure is to be discontinued in accordance with Section 5.9 of the Tender Documentation or if a new auction date is to be set.

## **1.9 Bidders' Training Seminar**

Before the start of the auction, the rules of the auction as well as the software used will be explained to the applicants orally (bidders' training seminar). In addition, bidders will be given the opportunity to test the software in practical use during the seminar.

The rules and the use of the software will be explained to all bidders together. The practical section of the bidders' training seminar will be carried out separately for each applicant. Questions will not be answered during these individual sessions. Any questions arising in this context will be collected and sent with answers to all applicants.

In the practical section of the bidders' training seminar, applicants will have the opportunity to simulate the events of an actual auction. The attendance of an appropriate number of representatives of the applicant (5-7 people) is necessary for this purpose. This simulated auction will be carried out separately for each applicant. The events and results of each simulated auction will not be made available to the other applicants.

The theoretical section of the bidders' training seminar will be held on Telekom-Control GmbH's premises, and the practical section will be carried out in the actual auction rooms. A maximum of 7 participants per applicant will be admitted to the bidders' training seminar.

A separate invitation will be sent out for this seminar, which is scheduled for October 16, 2000.

At the end of the bidders' training seminar, the applicants are to sign a declaration of understanding regarding the software and the auction rules.

### 1.10 Schedule and Important Dates

Announcement of authorized bidders	By October 9, 2000	Section 1.4
Deposit of fax machine, encryption devices and indication of two telephone numbers for communication with the company's headquarters	By October 9, 2000	Section 1.5
Deposit of laptops	Bidders' Training Seminar	Section 1.5
Bidders' Training Seminar – Explanation of auction rules	Planned: October 16, 2000	Section 1.9
Bidders' Training Seminar – Simulated auction	Planned: Calendar week 42/2000	Section 1.9
Auction start	Planned: November 2, 2000 (unless a preliminary auction is held, cf. Section 2)	



## **2 Preliminary Auction to Eliminate Affiliated Companies**

### **2.1 General Information**

In cases where two or more affiliated applicants apply for frequencies, a separate auction will be carried out for each group of affiliated applicants in order to determine which one from each group will be allowed to participate in the frequency allocation procedure.

The minimum bid for participation in this auction will be the minimum bid stated in the application for each frequency package in the paired range. The successful applicants will be allowed to participate in the frequency auction. The bid placed by each applicant in the last round of this auction will be considered the applicant's minimum bid per frequency package in the paired range for the first round of Stage I of the frequency auction (opening bid).

The auction will be held on the regulatory authority's premises. Bids will be submitted by means of a software application. The auction is scheduled to begin in calendar week 41/2000.

The auctioneer will be a member of the Telekom-Control Commission, charged with this duty by the Commission itself. The Telekom-Control Commission can also assign the duties of the auctioneer to the managing director or employees of Telekom-Control GmbH.

### **2.2 Participants**

The participants in this auction will be those companies among which the Telekom-Control Commission has found an affiliation according to the criteria laid down in Section 4.3.1 of the Tender Documentation. This determination will be made by official decision.

### **2.3 Auction Rules**

#### **A. Objects and Objective of the Auction**

- A.1. The purpose of this auction is to determine which of two or more applicants will be allowed to participate in the frequency auction. For this purpose, a 2x5 MHz frequency package will be put up for auction in this procedure.
- A.2. The successful applicant will be allowed to participate in the frequency auction. The bid placed by the applicant in the last round of this auction will be considered the applicant's minimum bid per frequency package in the paired range for the first round of Stage I of the frequency auction (opening bid).
- A.3. All bidders will be obligated to place a valid bid (cf. D.1) in the first round. If this is not the case, the auctioneer will place this bid in that bidder's name. If this is the case with two or more bidders, the sequence in which the bids are placed will be decided by random drawing.

**B. Rules of Activity**

- B.1. Each bidder must remain active in every round of the auction; inactive bidders will be eliminated from the auction.
- B.2. Bidders are considered active in a given round of the auction when they place an active bid during that round. A bid will be considered active if it is either
- the standing high bid from the previous round or
  - placed in the current round and considered valid.

**C. Standing High Bids**

- C.1. In order to determine the standing high bid for a given round, all active bids placed in that round will be evaluated. The highest of these bids will be considered the standing high bid.
- C.2. If two or more high bids in the same amount are submitted, then the bid that was submitted earlier will be considered the standing high bid.
- C.3. The obligations arising from a bid shall be considered void as soon as a new standing high bid has been determined.

**D. Valid Bids**

- D.1. In the first round, a bid (opening bid) shall only be considered valid if it is not lower than the bid placed by the bidder for a paired frequency package in his application.
- D.2. In all later rounds, a bid will only be considered valid if it exceeds the standing high bid from the previous round by at least the minimum bid increment.
- D.3. A bid will only be considered valid if it is a whole multiple of ATS 1 million.
- D.4. A bid will likewise only be considered valid if it is submitted within the time period defined by the auctioneer for the given round.

**E. Minimum Increment**

- E.1. The minimum bid increment will be between 2% and 10% of the standing high bid, rounded to a whole multiple of ATS 1 million. Minimum bid increments will be set by the auctioneer at the beginning of each round and communicated to the active bidders as an absolute number.
- E.2. It is planned that the minimum bid increment will be set using the following scheme:
- In Phase 1 of the auction: 10%
  - In Phase 2 of the auction: 5%
  - In Phase 3 of the auction: 2%

## **F. Information Disseminated to the Bidders**

F.1. After the close of each round, the auctioneer will disseminate the following information concerning that round to the active bidders:

- The standing high bid and the identity of the high bidder
- The active bids placed by active bidders
- The bidders eliminated in that round

F.2. At the beginning of each round, the auctioneer will communicate the information indicated under F.1, as well as the following:

- The amount of the absolute minimum increment
- The time period allotted for the round
- The phase of the auction

## **G. End of the Auction Procedure**

G.1. The auction procedure will come to an end when no valid offers are placed in a given round.

G.2. The bidder that placed the standing high bid will be eligible to take part in the frequency auction. The standing high bid will be considered the successful applicant's minimum bid per frequency package in the paired range for the first round of Stage I of the frequency auction (opening bid).

## **2.4 Authorized Bidders**

### **2.4.1 Announcement**

Each participant (cf. 2.2) is to provide the regulatory authority with the following information at least two days before the bidders' training seminar:

- The names of at least 2 and a maximum of 6 representatives of the applicant who are authorized to be present in the bidding rooms and to place legally binding bids on behalf of the applicant during the auction (cf. Appendix A). The authorization to represent the applicant is to be verified by a current excerpt from the Commercial Register, or by submitting documents granting the corresponding power of attorney.
- Indication of a company name (maximum 15 characters) for the purpose of IT processing (otherwise the company name will be abbreviated).

## 2.4.2 Presence of Authorized Bidders

Only those persons who have been authorized and can place legally binding bids for the applicants are allowed to enter the bidding rooms. The number of persons allowed in the bidding rooms is limited to 4 per applicant. All bids placed using the computer in the bidding room shall be considered legally binding bids for each respective applicant. Applicants are to guarantee that authorized representatives will be present throughout the auction procedure.

## 2.5 Equipment

### 2.5.1 Equipment Provided by the Auctioneer

The auction will be held on the regulatory authority's premises. One room will be assigned to each team of bidders. Rooms will be assigned by random drawing. Each room will be equipped with the following:

- 1 desk with a computer
- 1 conference table
- 1 telephone
- 1 printer

The bidding software necessary for the auction will be installed on each computer, and the operating system used will be Windows NT 4.0. The bidders will not be able to change various settings on the PC. In addition to the bidding software, a program for printing screenshots quickly will be provided as well. Each bidder will be given a manual for the installed software components during the bidders' training seminar.

### 2.5.2 Equipment Provided by the Bidders

The bidders are free to bring documents relevant to the auction procedure and PCs with them to the auction. In addition, bidders will be allowed to bring and use mobile communications devices at the auction.

## 2.6 Logistics of the Auction Procedure

### 2.6.1 Basics

Bids will be placed electronically using the auction software provided (cf. 2.6.2) The equipment necessary for this purpose will be provided by the regulatory authority. In addition, bidders will be provided with a telephone to communicate with the auctioneer. Should technical problems arise, the auctioneer will be responsible for deciding whether the auction is to be interrupted and the round repeated if necessary, or if bids can be placed over the telephone by the bidder who encountered the technical problems (cf. 2.6.3 for more information on this procedure).

The auctioneer can interrupt the auction (cf. 2.6.5) for a specified period of time or discontinue (cf. 2.7) the auction procedure entirely at any time.

### 2.6.2 Submissions of Bids using Software

At the beginning of each round, the information indicated in the Auction Rules (cf. 2.3) will be displayed to the bidders on the bidding screen. This information includes in particular the period of time allotted for the current round, the current phase of the auction, the standing high bid and high bidder, the minimum bid increments and minimum bid; the amount shown under minimum bid is the lowest possible valid bid.

Bids can be entered by selecting the frequency package and entering the bid amount for that package. The auction software performs a validation check for all bids submitted. When the bidder triggers the "Send bids" action and confirms the verification message (in the case of invalid bids, various warnings will appear), the bids will be considered placed and binding.

After the close of each round, the results of that round will be displayed to the active bidders (cf. Auction Rules, Section 2.3) on the bidding screen.

### 2.6.3 Submission of Bids by Telephone

The submission of bids by telephone will only be permitted in exceptional cases (e.g., technical difficulties). In such cases, the auctioneer must be informed by telephone immediately. Calls placed after the end of the time period allotted for a given round will not be taken into consideration. The auctioneer will be responsible for deciding whether to interrupt the auction and repeat the round or to allow bids to be placed by telephone. In the latter case, the bidder that encountered the technical difficulties will be given a printed screen shot of the bidding screen, and the auctioneer will call the bidder back to take his/her bid once the given round has ended. Before the binding bid is dispatched, the bidder will receive a printed screen shot, which is to be signed by the authorized bidders.

### 2.6.4 Time Period Allotted per Round

The time period allotted per round will be between 20 and 40 minutes, determined by the auctioneer and conveyed to the bidders at the beginning of each round. The time remaining in each round will be displayed on the bidding screen (stopwatch). Bidders that have not submitted their bids 10 minutes before the end of each round will receive a warning to this effect.

A round is considered to come to an end when all active bidders have submitted their binding bids or when the time period allotted for the round is over. Bids placed after the close of the round will not be taken into consideration, with the exception of bids submitted by telephone (cf. 2.6.3).

A round is considered closed once the results of the round have been evaluated.

### 2.6.5 Interruptions of the Auction

The auctioneer can interrupt the auction at any time and continue it at a later point. If the auction is interrupted before the end of a round (e.g., due to technical difficulties), the current round will be repeated. The bids placed in that round will then be considered void and remain unannounced (even to the auctioneer). Interruptions will be displayed to the bidders on the bidding screen. In addition, the reason for and duration of the interruption will be conveyed to the bidders in writing.

#### Access to the Auction Rooms, Auction Times

During the auction, bidders will have access to their assigned rooms from 8:00am to 7:00pm. Between 6:00pm and 7:00pm, the auction rooms will be cleaned. The bidders are free to be present or absent at this time. At 7:00pm, the rooms will be locked and sealed. On the next day, the rooms will not be opened until the respective bidders are present (between 8:00am and 8:30am at the latest). Between 8:30am and 8:45am, IT equipment will be checked.

The auction will take place at the following times: Monday–Saturday, 9:00am to 6:00pm. A one-hour lunch break will be provided between 12:00pm and 2:00pm.

The auctioneer reserves the right to change this schedule if necessary or appropriate. Bidders will be informed as to changes of this sort in due course.

Access to auction rooms is restricted to authorized bidders only. The presence of an employee of the regulatory authority in the rooms is allowed at any time. Should bidders wish to leave their rooms for a short time (e.g., to use the rest rooms), they must report this to the auctioneer and be supervised by an employee of the auctioneer while outside the bidding room. If a bidder leaves the auction rooms, s/he will not be allowed to re-enter the auction rooms until the next day.

## 2.7 Discontinuation of the Procedure

The Telekom-Control Commission shall have the right to discontinue the auction procedure if it detects collusive behavior among applicants and an efficient, fair and non-discriminatory procedure can not be carried out (§ 49a par. 12 no. 1 TKG), or if other significant reasons are found which endanger the proper execution of the auction procedure. In such cases, the Telekom-Control Commission will decide whether the procedure is to be discontinued in accordance with Section 5.9 of the Tender Documentation, or if a new auction date is to be set.

## 2.8 Bidders' Training Seminar

Before the start of the auction, the rules of the auction as well as the software used will be explained to the applicants orally (bidders' training seminar). In addition, bidders will be given the opportunity to test the software in practical use during the seminar.

The rules and the use of the software will be explained to all bidders together. The practical section of the bidders' training seminar will be carried out separately for each applicant. Questions will not be answered during these individual sessions. Any questions arising in this context will be collected and sent with answers to all applicants.

In the practical section of the bidders' training seminar, applicants will have the opportunity to simulate the events of an actual auction. The attendance of an appropriate number of representatives of the applicant (2-3 people) is necessary for this purpose. This simulated auction will be carried out separately for each applicant. The events and results of each simulated auction will not be made available to the other applicants.

The bidders' training seminar will be held on Telekom-Control GmbH's premises. A maximum of 4 participants per applicant will be admitted to the bidders' training seminar.

A separate invitation will be sent out for this seminar. The seminar is scheduled for calendar week 40/2000.

At the end of the bidders' training seminar, the applicants are to sign a declaration of understanding regarding the software and the auction rules.

## 2.9 Schedule and Important Dates

Announcement of authorized bidders	Two days before the seminar	Section 2.4
Bidders' Training Seminar – Explanation of auction rules	Planned: Calendar week 40/2000	Section 2.8
Bidders' Training Seminar – Simulated auction	Planned: Calendar week 40/2000	Section 2.8
Auction start	Planned: Calendar week 41/2000	

Telekom-Control Kommission  
Vienna, September 13, 2000

Chairman  
Dr. Eckhard Hermann