

PUBLIC NOTICE

Somos, Inc.
Two Tower Center Boulevard, 20th Floor
East Brunswick, NJ 08816

AUCTION OF TOLL FREE NUMBERS IN THE 833 CODE
STATUS OF AUCTION APPLICATIONS
FCC AU Docket No. 19-101

1. By this Public Notice, Somos announces the status of 60 applications received for the auction of certain Toll Free numbers in the 833 code (833 Auction).¹ The 833 Auction, which is scheduled to take place on December 17, 2019, makes available 17,638 Toll Free numbers in the 833 code.² This Public Notice also provides important information regarding the modification and resubmission of applications to participate (FCC Form 833) and reminds applicants of deadlines and certain procedures the Federal Communications Commission (Commission) adopted for the 833 Auction.

I. AUCTION APPLICATIONS AND UPFRONT PAYMENTS

A. Status of Auction Applications

2. The applications to participate in the 833 Auction have been reviewed for completeness and compliance with the Commission's rules and procedures. The applications have been classified into the two categories set forth below:

Complete **31 applications**
Incomplete **29 applications**

3. **Complete Applications.** Attachment A to this Public Notice lists the applications for the 833 Auction that have been submitted and designated as complete. **Each of these applicants will become a qualified bidder upon receipt by Somos of the required upfront payment by the November 27, 2019 deadline described below.**³ Each applicant must maintain the accuracy of its auction application.⁴

¹ A copy of this Public Notice will be sent by overnight delivery and email to the contact person listed on the FCC Form 833 for each 833 Auction applicant. This Public Notice is released by Somos, Inc., the Toll Free Numbering Administrator, in its capacity as auctioneer for the 833 Auction, as directed by the Federal Communications Commission. *Auction of Toll Free Numbers in the 833 Code; Notice and Filing Requirements, Upfront Payments, and Other Procedures for the 833 Auction; Bidding Scheduled to Begin December 17, 2019*, AU Docket No. 19-101, WC Docket No. 17-192, CC Docket No. 95-155, Public Notice, 34 FCC Rcd 6560, 6588 para. 97 (2019) (*833 Auction Procedures Public Notice*).

² *Id.*

³ See *infra* Section I.B; see also *833 Auction Procedures Public Notice*, 34 FCC Rcd 6589-91, paras. 101-08.

⁴ *833 Auction Procedures Public Notice*, 34 FCC Rcd 6585-86, paras. 84-87. An applicant must furnish additional or corrected information to Somos within five days of a significant occurrence, or to amend its auction application no more than five days after the applicant becomes aware of the need for amendment. An applicant's obligation to

4. Designation of an application as complete indicates the applicant has provided the certifications and basic information concerning its qualifications that are required by the Commission's procedures for participation in the 833 Auction.

5. **Incomplete Applications.** Attachment B to this Public Notice lists the applications for the 833 Auction that have been submitted but were found to be incomplete or otherwise deficient. Each of these applicants will receive a letter identifying each deficiency in its application. This letter will be sent to the contact person at the contact address listed on the application via overnight delivery and email, along with a copy of this Public Notice. To become a qualified bidder for the 833 Auction, each applicant must resubmit its application, having corrected any deficiencies, and make the required upfront payment **by the November 27, 2019, 6:00 p.m. Eastern Time (ET) deadline.** Each applicant must also maintain the accuracy of its auction application.⁵

B. Upfront Payments

6. Upfront payments for the 833 Auction are due in the proper Somos account **by 6:00 p.m. Eastern Time (ET) on Wednesday, November 27, 2019.** The Somos account information is provided in the *833 Auction Procedures Public Notice*.⁶ In order to meet the upfront payment deadline, an applicant's payment must be credited to Somos's account by the deadline. **Payments above \$300 must be made by wire transfer in accordance with the instructions provided in the 833 Auction Procedures Public Notice.**⁷ Payments of \$300 or less may be made by Automated Clearing House (ACH).⁸ No other payment methods are acceptable for this auction.⁹ Each applicant must provide its Auction ID and its applicant name exactly as it appears on its 833 Auction application as part of the wire transfer or ACH.

7. Each applicant is responsible for timely submitting its upfront payment. If it is submitting payment by wire transfer, the applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the wire transfer to be initiated and completed prior to the deadline. The Commission has repeatedly cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.¹⁰

8. Each applicant should obtain confirmation from its financial institution that its

make such a modification or amendment to its pending application continues until it is made. *Id.* at 6585-86, para. 84.

⁵ *Id.* at 6585-86, paras. 84-87.

⁶ *Id.* at 6590-91, para. 107 (for wire transfers) and para. 108 (for ACH payments).

⁷ *Id.* at 6589-90, paras. 106-07.

⁸ *Id.* at 6589-91, paras. 106-08.

⁹ Somos will not accept checks, credit cards, or other forms of payments not outlined above.

¹⁰ See, e.g., *Four Corners Broadcasting, LLC*, Letter Order, 25 FCC Rcd 9046 (WTB 2010) (denying waiver request of upfront payment deadline); *Spectrum Acquisition, Inc.*, Letter Order, 23 FCC Rcd 4765 (WTB 2008) (denying waiver request of upfront payment deadline); *Lynch 3G Communications Corp.*, Letter Order, 18 FCC Rcd 11552 (WTB 2003) (finding that upfront payment was not timely submitted).

wire transfer or payment via ACH to Somos was successful and from Somos staff that its upfront payment was timely received and that it was deposited into the proper account. For confirmation from Somos, an applicant may contact Brian Pflug at 833AuctionFinance@Somos.com. Detailed information regarding upfront payments can be found in Section IV.F.1 of the *833 Auction Procedures Public Notice*.¹¹

C. 833 Auction Application Changes and Resubmission

9. Each applicant whose application for the 833 Auction has been identified as incomplete must address each defect in its application during the resubmission window, which is now open.¹² Any application corrections must be made electronically using the Somos Auction System.¹³ Corrected applications must be submitted **prior to 6:00 p.m. ET on Wednesday, November 27, 2019. Applicants must recertify when they resubmit their application.** This will be the only opportunity to cure application defects, and late resubmissions will not be accepted. An applicant that filed an application deemed to be incomplete, as noted in Attachment B to this Public Notice, **must submit a timely and sufficient upfront payment before Somos will review its resubmitted application.** If an application is incomplete or otherwise deficient after the resubmission deadline has passed, or if the required upfront payment is not made by the specified deadline, the applicant will not be permitted to bid in the 833 Auction.

10. During the resubmission window, applicants may log into the Somos Auction System and make certain changes to its application.¹⁴ An applicant can view all the contents of its application, but the electronic FCC Form 833 will not permit an applicant to make changes to the following data fields: applicant name, legal classification, certifier, bidding on behalf of information, or Toll Free number selection. Administrative and minor changes can be made, including, for example, deletion and addition of authorized bidders (to a maximum of three), revision of addresses and telephone numbers of the applicant and its contact person, and changes to responsible party. While changes can be made to ownership and agreement information,¹⁵ we remind each applicant that any application changes must comply with the

¹¹ See *833 Auction Procedures Public Notice*, 34 FCC Rcd at 6589-91, paras. 101-08.

¹² *Id.* at 6579, 6588, paras. 64, 97-98.

¹³ As described in the *833 Auction Procedures Public Notice*, the Somos Auction System is the online system for the 833 Auction that accepts applications and bids and can be accessed at auction.somos.com. *Id.* at 6564-65, para 10 and n.24.

¹⁴ During the resubmission phase, applicants will have electronic access to update the following application fields: jurisdiction of formation/country of citizenship, applicant address, responsible party information, responsible party address, contact information, contact address, authorized bidder information, agreement information, and ownership information. During the resubmission period, some required updates may need to be submitted by uploading an attachment. During all phases of the application process, applicants may need to make certain administrative changes including updates to: applicant address, responsible party address, contact information, and contact address. Outside of the resubmission phase, those changes can only be made by written request. *Id.* at 6586, para. 85.

¹⁵ For more information on making administrative changes to an existing application, see *833 Auction Procedures Public Notice*, para. 85. See also *FCC Form 833 Application Filing Instructions* (September 11, 2019), pp.12-13,

Commission's rules and procedures for the 833 Auction, which prohibit, among other things, changes in ownership that would constitute an assignment or transfer of control, as well as changes in ownership or agreements that would constitute violations of the prohibition on certain communications.¹⁶ If any application is changed to effect a major amendment, such as a change in control, the applicant will be ineligible to bid in the 833 Auction.¹⁷

II. OTHER IMPORTANT 833 AUCTION INFORMATION - ANNOUNCEMENT OF QUALIFIED BIDDERS

11. Following the Somos review of the resubmitted auction applications and the correlation of upfront payments, a public notice listing all applicants qualified to bid in the 833 Auction will be released by Somos. This same public notice will also include schedules for a bidding webinar, the mock auction, and the single round of bidding for the 833 Auction.

III. APPLICANTS' CONTINUING OBLIGATIONS

A. Duty to Maintain Accurate Information in Applications

12. We remind applicants that 833 Auction procedures require an applicant to maintain the accuracy and completeness of information furnished in its pending application to participate in the 833 Auction.¹⁸ Each applicant should amend its application to furnish additional or corrected information within five days of a significant occurrence, or no more than five days after the applicant becomes aware of the need for amendment.¹⁹ All changes are subject to review by Somos staff.

13. An applicant that needs to make permissible minor changes to its auction application or that must make changes in order to maintain the accuracy and completeness of its application during the resubmission filing window should make such changes to its application electronically using the Somos Auction System. Between the closing of the resubmission filing window and the release of the public notice announcing qualified bidders for the 833 Auction, applicants cannot make changes by using the Somos Auction System. For all permissible application changes prior to the release of the public notice announcing qualified bidders for the 833 Auction, an applicant must submit a letter briefly summarizing the changes to its application by email to auctionhelp@somos.com following the instructions provided in the *833 Auction Procedures Public Notice*.²⁰

which is available under the Auction Instructions tab of the Information section of the 833 Auction website, auction.somos.com.

¹⁶ See *833 Auction Procedures Public Notice*, 34 FCC Rcd at 6568-74, 6585, paras. 22-42, 83.

¹⁷ *Id.* at 6585, para. 83.

¹⁸ *Id.* at 6585-86, para. 84.

¹⁹ *Id.*

²⁰ *Id.* at 6586, para. 85. The email summarizing the changes must include a subject line referring to the 833 Auction, the name of the applicant, and the applicant's Auction ID. For example, "Re: Changes to 833 Auction Application of XYZ Corp., Auction ID 12345678." Any attachments to the email must be formatted as Adobe PDF (.pdf) or Word (.doc and .docx) documents.

14. For more information on an applicant's continuing obligation to maintain the accuracy and completeness of information furnished in its application to participate in the 833 Auction, applicants should refer to previous 833 Auction public notices, including the *833 Auction Procedures Public Notice*.²¹

B. Due Diligence

15. We remind each potential bidder that it is solely responsible for investigating and evaluating all legal, technical, and marketplace factors and risks associated with the Toll Free numbers that it is seeking in the 833 Auction.²² Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

C. Prohibition of Certain Communications

16. We remind all 833 Auction applicants that the prohibition on certain communications applies to each applicant that filed an application (FCC Form 833) in the 833 Auction.²³ Specifically, each applicant in the 833 Auction is prohibited from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies. Each applicant will be prohibited from communicating, with any other applicant in any manner, the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies (including with respect to the post-auction market for Toll Free numbers).²⁴ For purposes of the prohibition on certain communications, an "applicant" in the 833 Auction includes: (i) all controlling interests in the entity submitting the auction application; (ii) all holders of partnership and other ownership interests and any stock interest amounting to 10% or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting the auction application; (iii) all officers and directors of that entity; and (iv) any entity listed as a potential subscriber on whose behalf the entity submitting the auction application will be bidding.²⁵

17. This prohibition took effect as of the auction application filing deadline, which was **Friday, October 18, 2019, at 6:00 p.m. ET**, and ends at the post-auction final payment with late fee deadline for the 833 Auction, which will be announced in a future public notice.²⁶ **This prohibition applies to all applicants regardless of whether such applicants become qualified**

²¹ See *id.*, 6585-86, paras. 84-87; cf. 47 CFR §§ 1.65, 1.2105(b). Questions about FCC Form 833 amendments should be directed to the auctionhelp@somos.com.

²² See *833 Auction Procedures Public Notice*, 34 FCC Rcd 6586-87, paras. 88-92.

²³ *Id.* at 6568-73, paras. 22-41.

²⁴ *Id.* at 6568, para 22.

²⁵ *Id.* at 6568, para. 23.

²⁶ *Id.* at 6569, para. 24.

bidders or actually bid in the 833 Auction.²⁷ For further information on the prohibition, applicants should refer to the *833 Auction Procedures Public Notice*.²⁸

18. *Disclosure Obligations.* Each auction applicant that makes or receives a communication that appears to violate the prohibition on certain communications must report the communication in writing to the Commission and Somos staff immediately, but in no case later than five business days after the communication occurs.²⁹ An applicant must report such a communication even if it does not result in an agreement or understanding regarding bids or bidding strategy that must be reported pursuant to the applicant's obligation to maintain the accuracy of its application.³⁰ Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.³¹

19. *Reporting Prohibited Communication.* A party reporting any information or communication that appears to violate the prohibition on certain communications must take care to ensure that any report does not itself violate the prohibition.³² To minimize the risk of inadvertent dissemination of information in such reports, parties reporting a potential prohibited communication must submit a report directly to the following individuals: (1) Margaret W. Wiener, Chief, Auctions Division, Office of Economics and Analytics, FCC, by email to 833auction@fcc.gov; and (2) Joel Bernstein, Vice President, Regulatory and Public Policy, Somos, by email to auktionhelp@somos.com. For the 833 Auction, any such report must be filed according to the instructions set forth in the *833 Auction Procedures Public Notice*.³³

20. *Possible Sanctions.* Any applicant found to have violated the prohibition on certain communications may be subject to sanctions.³⁴ In addition, we remind each applicant that it is subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws or the

²⁷ A party that submits an auction application becomes an "applicant" under the rule at the application filing deadline and that status does not change based on subsequent developments. *See, e.g., Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (holding that section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). Thus, an auction applicant that does not correct deficiencies in its application, fails to submit a timely and sufficient upfront payment, or does not otherwise become qualified, remains an "applicant" for purposes of the rule and remains subject to the prohibition on certain communications until the post-auction payment deadline for the 833 Auction. *833 Auction Procedures Public Notice*, 34 FCC Rcd at 6578-79, para. 59.

²⁸ *833 Auction Procedures Public Notice*, 34 FCC Rcd at 656874, paras. 22-41.

²⁹ *Id.* at 6573, para. 39.

³⁰ *See also Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Seventh Report and Order, 16 FCC Rcd 17546, 17553-55, paras. 13-17 (2001).

³¹ *833 Auction Procedures Public Notice*, 34 FCC Rcd at 6573, para. 39.

³² For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other parties specified under the rule through the use of Commission filing procedures that allow such materials to be made available for public inspection.

³³ *See id.* at 6573-74, paras. 40-41.

³⁴ *Id.* at 6573, para. 38.

Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, or full bid amount, and it may be prohibited from participating in future auctions, among other sanctions.³⁵

D. Limited Information Procedures

21. We remind applicants that, under the limited information procedures in effect for the 833 Auction (sometimes also referred to as anonymous bidding), Somos and the Commission are withholding from public release, until after the close of bidding in the 833 Auction, any information that may indicate specific applicants' interests in the auction—including, among other things, the numbers that an applicant selects for bidding in its auction application, the amount of any upfront payment made by or on behalf of an applicant for the 833 Auction, any applicant's bidding eligibility, and any other bidding-related information that might reveal the identity of the bidder placing a bid or the amount of the bid.³⁶

22. Accordingly, communication with other applicants or public disclosure of such non-public information may violate the Commission's limited information procedures and the prohibition on certain communications. Therefore, applicants must take care not to communicate non-public information to the public, financial analysts, or the press.³⁷ Examples of communications raising concern, given the limited information procedures in effect for the 833 Auction, would include an applicant's statement to the press about its upfront payment or bidding eligibility, and an applicant's statement to the press that it is or is not interested in bidding in the auction.

E. Submission of Auction-Related Filings

23. A party wishing to submit a request, a complaint, or other information concerning the 833 Auction should, in addition to following other procedures prescribed by the Commission's rules, send a copy by email to 833auction@fcc.gov to the attention of Margaret Wiener, Chief, Auctions Division and to auctionhelp@somos.com to the attention of Joel Bernstein, Vice President, Regulatory and Public Policy. The Commission occasionally receives complaints regarding specific bidders and requests to suspend bidding during an auction. While the Commission reserves the right to take appropriate action during an auction to preserve the integrity of the auction process, it is generally the Commission's practice to address any such allegations only after the close of the bidding, when there is greater opportunity for investigation of such allegations, if warranted. The Commission will not investigate any

³⁵ *Id.*

³⁶ *Id.* at 6577-78, paras. 54-56.

³⁷ *Id.* at 6572-73, para. 37. The Commission has long expressed the concern that applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of non-public information relating to auctions, such as bids and bidding strategies. See *Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction*, Public Notice, 13 FCC Rcd 341, 347-48 (WTB 1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

complaints or allegations that are not accompanied by full contact information, including name, address, and telephone number, for the complaining party or parties.

IV. CONTACT INFORMATION

24. For specific questions about an applicant's incomplete status or its application deficiencies, the applicant should contact the staff reviewer identified in the correspondence sent to the applicant by overnight delivery and email.

25. Additional information for applicants is available at the Somos Auction web page (auction.somos.com).

26. For further information concerning the 833 Auction, contact auctionhelp@somos.com or 844-439-7666.

Attachment A

AUCTION OF TOLL FREE NUMBERS IN THE 833 CODE

Complete Applications

(Sorted by Applicant Name)

The following applicants have an initial filing phase status of "Complete."

Date of Report: 11/13/19, 9:30: a.m. ET

| AUCTION ID | NAME |
|------------|----------------------------------|
| 18510868 | Ascend Holding Company, LLC |
| 20809437 | Baumgartner, Donna |
| 74225618 | Bohling, Jeffrey |
| 99675285 | CannamedExtractions, LLC |
| 14579155 | Captain Experiences Incorporated |
| 28210559 | Carpenter Investments LLC |
| 86948741 | Cave Law LLC |
| 57618801 | Cohen, Jarred |
| 25751872 | Couto Construction Inc |
| 67396723 | Damas, Yoel |
| 30157066 | Dean, Timothy |
| 28615013 | Didenko, Volodymyr |
| 25642266 | Dodition, Inc |
| 11838141 | Gibbons, Shane |
| 24885728 | Jones, Anthony Lee |
| 84077908 | Leckner, Carl |
| 64725130 | Mehlhase, Sascha |
| 79678691 | Mixhits Radio, LLC |
| 20988275 | Panther Public Adjusting |
| 55192592 | Parsons, Jerome Calvin |
| 94593537 | Phoenix Digital Systems |
| 22900576 | Primary Wave Media LLC |
| 70906475 | Sanders Phillips Grossman, LLC |
| 62317643 | Smith. Leland A. |
| 53589262 | Steiger, William |
| 38987617 | Thorn, John |
| 76972306 | Utica Tax LLC |
| 67108851 | Vasilaros Legal, LLC |
| 92847809 | Verizon Services Corp. |
| 31092083 | Vertical Bliss Inc |
| 38646724 | Williams, Yedidah |

Attachment B

AUCTION OF TOLL FREE NUMBERS IN THE 833 CODE

Incomplete Applications

(Sorted by Applicant Name)

The following applicants have an initial filing phase status of "Incomplete."

Date of Report: 11/13/19, 9:30: a.m. ET

| AUCTION ID | NAME |
|------------|--|
| 17431050 | 1-800-Flowers.com, Inc. |
| 42568121 | 800 Response Information Services, LLC |
| 49275913 | Ace High Casino Rentals LLC |
| 53371523 | ANS Center for Hope Foundation, Inc. |
| 84989417 | Avoxi Inc |
| 34683012 | Bilton-Smith, Mark |
| 57343888 | Brightlink |
| 41669868 | Coastal Insulation, Inc. |
| 30250681 | Comet Media Inc. |
| 11110581 | Coore Inc |
| 66958561 | Dish Network Limited Liability Company |
| 35197949 | FracTel |
| 12223669 | International Telcom |
| 33802026 | National Sales Partners, LLC |
| 12943707 | NexRX LLC |
| 50016202 | NumberBarn LLC |
| 58044638 | MBZ Communications, Inc. |
| 87156721 | Persaud, Angel |
| 29251536 | Phone.Com Inc. |
| 39033466 | Quimby, William |
| 69225960 | RouteTrst, LLC |
| 26151043 | Steers, Timothy Lyle |
| 25167417 | Stocker, Loren |
| 62746109 | Studio 53 LLC |
| 59720495 | Support.com |
| 27663782 | Support.com |
| 58005389 | Teekell, Joshua |
| 39460991 | Telebrand Inc |
| 93562104 | Xepco Inc. |