



# **Framework for 2600MHz Spectrum Auction:**

## **Rules and Processes**

- Instructions for Qualified Bidders**
- Information for the Authority and Other Agencies regarding the Management of the Auction**

Issued by Posts and Telecommunications Department

Oct 12<sup>th</sup> , 2016

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## **Background and Overview of the Myanmar 2600MHz Broadband Data Auction**

The Ministry of Transport and Communications of the Republic of the Union of Myanmar, acting through the Posts and Telecommunications Department (the “**Authority**”) is authorized by the Telecommunications Law of 2013 (“Act”) and its ancillary licensing rules to conduct an Auction of spectrum to provide public Broadband Data services in the Republic of the Union of Myanmar (the “Auction”).

The Authority has appointed Nordicity Group Limited (‘The Auction Manager’) as its agent in respect of this Auction.

The Auction Date for the Auction of spectrum to provide public broadband data services in the Republic of the Union of Myanmar is scheduled for October 17<sup>th</sup> 2016 at the premises of The Authority of MINISTRY OF TRANSPORT AND COMMUNICATIONS, Office NO.2, Nay Pyi Taw (hereafter, the Auction Facilities). The Authority reserves the right to change the Auction Date and Location.

The Authority reserves the right to terminate or to vary all or any part of the Auction process, procedures or timetable without prejudice to any Bidder. The Authority will without undue delay give notice to each and every Bidder of such decision.

The Authority reserves the right to amend the Auction Rules at any time provided that it gives notice of such amendments to each and every Bidder not later than seven (7) calendar days before the Auction Date. The Authority reserve the right to make technical corrections intended to clarify and not to change the meaning of the Auction Rules at any time provided that it gives notice of such technical corrections to each and every Qualified Bidder not later than three (3) calendar days before the Auction Date. No liability shall be incurred by the Authority or the Auction Manager in the event of such amendments or technical corrections.

This Auction Framework includes rules and processes as well as instructions to qualified bidders for their use and information for the Ministry of Transport and Communications /PTD (the ‘Spectrum Authority’ or ‘Authority’) for the management of the processes will be published prior to, during and post-auction periods.

This document is the result of a review of international best practices in spectrum planning and auctions as well as various consultative processes:

- Notification of the 2600MHz auction consultancy and intent to auction the 2600MHz band;
- Presentation on January 28<sup>th</sup>, 2016 by PTD to stakeholders of the document *Framework for the 2600MHz Spectrum Auction: Potential Parameters for the 2600MHz auction*; and,

- Publication on February 3<sup>rd</sup>, 2016 of the consultative document: *Framework for the 2600MHz Spectrum Auction for New Broadband Data Services: Consultation with Stakeholders Regarding Potential Parameters for the 2600MHz Auction and Expression of Interest in Participation*

In drafting this final framework, PTD has carefully considered the input and comments received from stakeholders in these consultation processes.

## Pre-auction and Auction Schedule

A selected schedule of activities prior to, during and post auction will be provided to interested stakeholders in the figure below. The Authority reserves the right to modify these dates as necessary – in which case, the stakeholders / qualified bidders will be notified of the changes as soon as possible.

**Table-1** 2600MHz Auction Process: Consultations, Qualification, Preparation, Event & Post-event

Key Tasks	Period	Notes
<b>1. Publication of Auction Framework</b>	July 25 <sup>th</sup>	Auction rules, processes, bid depositand schedule; All stakeholders
<b>2. Invitation to submit Expression of interest</b>	July 25 <sup>th</sup>	NFS (I) licensees
i. Deadline for submission of Expression of Interest	August 9 <sup>th</sup>	NFS (I) licensees;
ii. Review of potential bidders by Auction Team	August 9 <sup>th</sup> - 16 <sup>th</sup>	
<b>3. Invitation Letter to Potential Bidders with Bidder Qualification Packages</b>	August 17 <sup>th</sup>	NFS (I) licensees expressing interest Financial, Ownership, Technical Information
i. Deadline for Potential Bidders to Submit Financial, Technical & Ownership Documentation for Qualification	September 7 <sup>th</sup>	NFS (I) licensees
ii. Announcement of Qualified Bidders	September 28 <sup>th</sup>	All stakeholders
iii. Auction Forms & Bidder Agreement Provided to Qualified Bidders	September 29 <sup>th</sup> – 30 <sup>th</sup>	Qualified bidders
<b>4. Preparation of Qualified Bidders for Auction Process</b>		
i. Deadline for Submission of Qualified Bidder Agreement Form	October 5 <sup>th</sup>	Qualified bidders.
ii. Period for Submission of Questions on Auction Rules & Processes	October 5 <sup>th</sup> – 14 <sup>th</sup>	Qualified bidders. Responses will be provided to all qualified bidders

<b>Key Tasks</b>	<b>Period</b>	<b>Notes</b>
iii. Question & Answer Session	October 10 <sup>th</sup>	Qualified bidders; Q&A session if needed Oct 4 <sup>th</sup>
iv. Mock Auction	October 12 <sup>th</sup>	Qualified bidders
<b>5. Auction Event</b>		
i. Auction Event	October 17 <sup>th</sup> (& 18 <sup>th</sup> )	Qualified bidders October 19 <sup>th</sup> – if additional time is required to complete the auction,
ii. Public Announcement of Auction Audit Report and Auction Winners	October 20 <sup>th</sup>	All stakeholders
iii. Completion of Project Report	November 3 <sup>rd</sup>	PTD, MTC

## **Auction Format**

The Auction Framework is based on a Second-Price Simultaneous, Multiple-round, and Ascending (SMRA) auction methodology. The SMRA auction is characterized by multiple bidding rounds, increases in bid prices meeting minimum bid increments set by the Auction Manager on a round-to-round basis and final price paid by the winning bidder in each band based on second highest price.

The multiple rounds of bidding will enable a ‘price discovery’ process in which bidders test their bidding strategy within the context of their own business plans and overall, determine a market price for the various lots offered.

Bidders will be required to be on site in order to participate in the auction and bids will be made using the sealed-envelop method. Bidding will be anonymous, thus the information released to individual Bidders on a round-by-round basis will be limited to the total number of bids, the excess demand for any particular lot and the bidders own bid activity and price.

This methodology was deemed to be best suited to meet the objectives of generating a close approximation of market prices and fair pricing of spectrum for bidders, in light of the experience in current state of the telecommunications industry in Myanmar and the auction experience in other best practice jurisdictions.

## Spectrum Lots to be made Available in the 2600MHz Auction

40MHz of spectrum in the 2600MHz band (2575-2615 MHz) will be made available for this auction comprised of two time 20MHz (2575-2595 MHz, 2595-2615 MHz) Fig 1. divided into three regions as Figure 2. Each bidder will be able to win up to two regional licenses thus allowing for three to six regional licensees in total. The Spectrum Lot will be in TDD mode. Note that a Bidder will be allowed to Bid for a maximum of one spectrum lot comprised of up to two regional 20MHz Lots in the TDD mode. Thus the spectrum cap in the 2600MHz band will not exceed 20MHz per licensee in the same region.

The radio frequency spectrum in the 2600MHz frequency band available for licensing for the provision of Broadband Data services, concurs with the National Table of Frequency Allocations (NTFA) and the Spectrum Roadmap. Included in the Invitation to Tender Package is a copy of this Spectrum Plan, which specified the frequency range of operation, the bandwidth of the respective Lots and the technical operating conditions. These frequency bands are illustrated as follows:

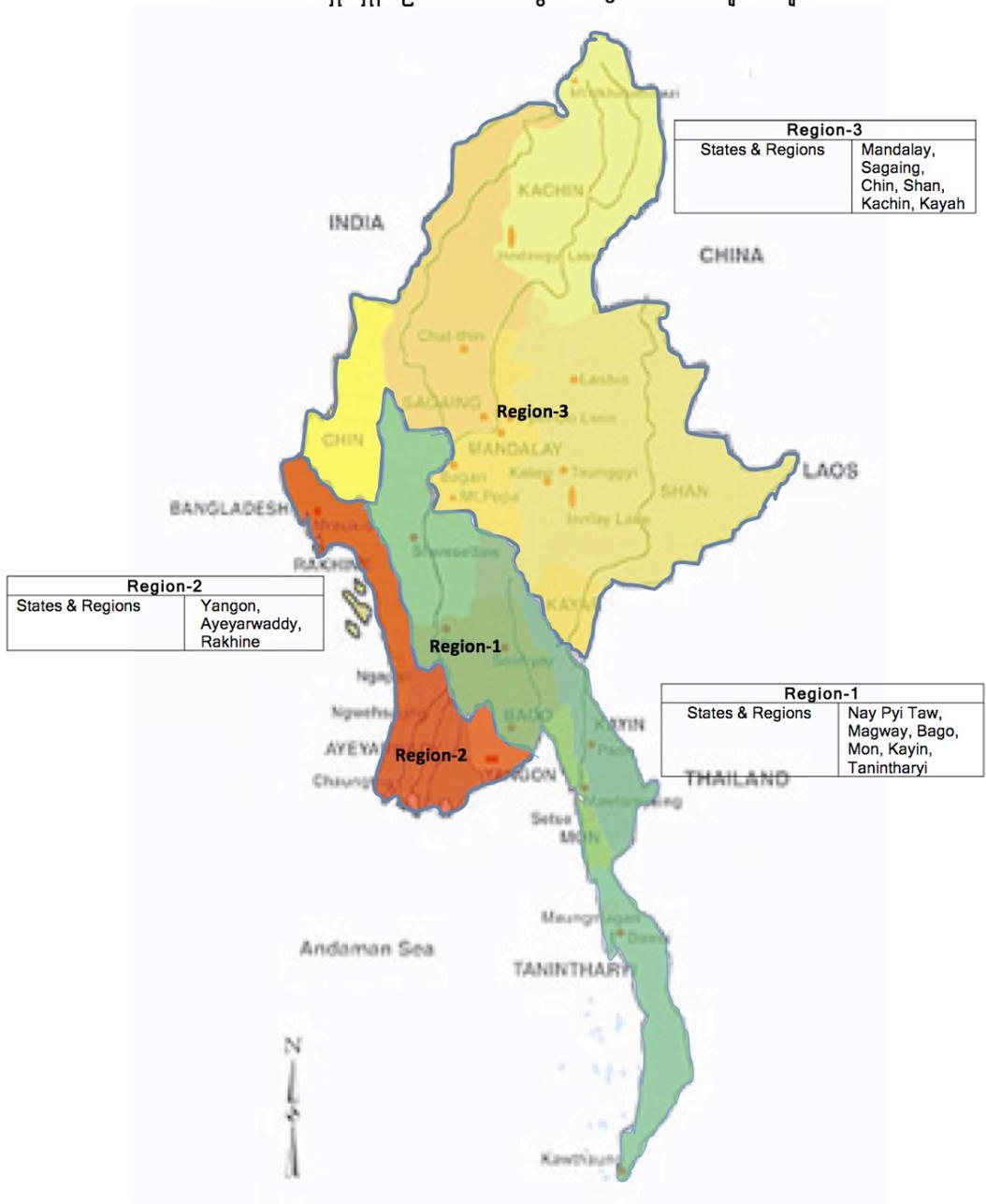
**Figure 1: 2600MHz Band Frequency Assignment Plan for Public Broadband Data Services**



2600MHz Band (2500-2690MHz) – Figure 1 illustrates the available spectrum, lots, minimum spectrum Lot size and the accommodation of TDD duplex mode of operation.

**Figure 2: Regional Map**

2600 MHz လိုင်းနှိုင်းခွင့် Auction အတွက် Region-wide လျာထားချက်



## Pre-auction Period

In the pre-auction period interested bidders will be asked to provide financial, technical and ownership data in order to qualify as bidders. Once qualified they will be asked to sign a Qualified Bidder's Agreement and upon signature, will receive training in the Auction processes.

## Pre-auction: Bidder's Qualification Processes and Forms

The following processes and forms are designed to ensure an orderly framework for interested Bidders to provide all the necessary information and guarantees during the pre-Auction period and thus meet the conditions of a 'Qualified Bidder' for the auction event:

1. Invitation for Expression of Interest by Potential Bidders
2. Bidder's Contact and Designation of Authorized Individuals:
3. Bidder's Financial Projections and Demonstration of Financial Capacity
4. Bidder's Demonstration of Technical Capacity
5. Bidder's Provision of the Financial Guarantee
6. Bidder's Demonstration of Non-affiliation
7. Qualified Bidder's Agreement

These forms will be provided in a separate Pre-auction Forms document to interested / qualified parties.

### 1. Expression of Interest by Potential Bidders (Eol Form)

The purpose of this form is to invite all interested NFS(I) licensee to express their interest and register to participate in the 2600MHz Spectrum Auction Process. All interested NFS(I) licensee are required to submit their Eol form as per Appendix in this document to PTD by following emails not later than 16:00, August 9<sup>th</sup> 2016;

**Email:** [ptdspectrum@ptd.gov.mm](mailto:ptdspectrum@ptd.gov.mm), [ptdspectrum@gmail.com](mailto:ptdspectrum@gmail.com)

**(Note: Licensees who had submitted their Eol in Feb 17<sup>th</sup> 2016 are still required to submit their Eols for this new process.)**

### 2. Bidder's Contact and Designation of Authorized Individuals:

The purpose of this form is to enable interested parties to register as Bidders in the auction event and to indicate the individual corporate officers designated to represent the company during the auction as well as in the **pre and post auction period**.

### **3. Bidder's Financial Projections and Demonstration of Financial Capacity**

The purpose of this form is for potential bidders to demonstrate their ability to finance the launch and operate a broadband data services network as well as to assume potential losses in the first few years of operation.

In order to qualify as a bidder, interested NFS(I) licensees will be required to:

- Provide financial projections for the launch period (year 0) as well as 5 years of operations of the broadband data services and network;
- Demonstrate their financial capacity - including access to capital (debt and equity) for the new service including: build out of the 2600MHz network, launch of new services, ability to sustain operational losses in the initial years, etc.
- Produce audited financial statements for the bidding entity as well as that of the holding company(ies).

The demonstration process will take into account financial and technical information already filed with PTD for their current NFS(I) licenses.

### **4. Bidder's Demonstration of Technical Capacity**

The purpose of this form is for potential bidders to demonstrate their technical ability to the launch and operate a broadband data services network in Myanmar.

In order to qualify as a bidder, interested NFS(I) licensees will be required to:

- Provide summary plans regarding the selection of technology, network configuration and plans to meet the roll out and other conditions of license.
- Identify roles and responsibilities of key technical personnel. Provide CVs of key personnel that demonstrate their qualifications and experience in operating advanced telecommunications networks – in particular, broadband data networks in Myanmar and/or in jurisdictions with similar characteristics to the Myanmar market.

### **5. Bidder's Provision of the Bank Financial Guarantee ('Bid Deposit')**

In order to qualify as potential bidders, interested NFS(I) licensees will be required to provide Financial Guarantee from a bank or financial institution approved by the Department.

The bidders' financial guarantee set by the Authority is designed to ensure that Bidders properly covered the financial risk to the Authority of a failed auction event in the case of egregious behaviour on the part of individual Bidders, or collusion among Bidders, while

at the same time taking into account the financial capacity and preferences of Bidders. It was decided that a Bid Deposit would be the most appropriate form of security since it is easy to effect locally and would require only a small cash outlay by the Bidder.

In order for a person to be qualified as a Bidder in the Auction, the Authority must receive a signed original no later than 14:30 MST (Myanmar Standard time) on September 7<sup>th</sup>, 2016 - the date assigned by the Auction Manager, the Bidder Agreement (Form A) signed by the Qualified Bidder and an irrevocable Bid Deposit in the amount of **five hundred thousand US dollars (USD 500,000.00)**.

The irrevocable Bid Deposit must be issued either by a Licensed Republic of the Union of Myanmar commercial bank or financial institution approved by the Department and shall have such bond issued in favour of the Department. The irrevocable Bid Deposit must follow the form that has been supplied to Bidders in the Auction Rules. Failure to comply with this requirement will result in the Bidder being disqualified from participating in the Auction.

The financial guarantee provided by the qualified Bidder will be released by the Authority within 60 days after successful completion of the Auction event (providing the bidders had not contravened the Auction Rules). In the event that the potential bidder does not meet the criteria to become a Qualified Bidder, the bid deposit will be returned within 30 days of the announcement of qualified bidders.

## **6. Ownership Structure and Demonstration of Independence**

The objective of the auction is to promote the addition of providers of broadband data services and to promote competition. In order to qualify as potential bidders, interested NFS(I) licensees will be required to do the following:

- Provide the ownership structure (common shares, voting rights) of the entity bidding for the spectrum as well as that of the holding company(ies).
- Demonstrate that they are independent companies. Thus, the bidding entity;
  - Cannot share common ownership interest with any other bidder.
  - Cannot share common ownership interest, with any operators that currently hold a nationwide operator license; Myanmar Posts and Telecommunications, Telenor Myanmar Limited and Ooredoo Myanmar Limited.
  - Bidders are not allowed to communicate with each other with respect to the auction.

## **7. Qualified Bidder's Agreement**

Once the bidder has been qualified, it will be invited to sign the Bidder's Agreement. The purpose of this form is to provide a legally binding agreement between the Authority and the Qualified Bidder with regards to respect for auction rules and procedures, non-disclosure and anti-collusion.

## **Preparation of Bidders**

1. All Qualified Bidders will be eligible to participate in a Question and Answer session and a Mock Auction, tentatively scheduled for October 10<sup>th</sup> and October 12<sup>th</sup>, 2016 respectively.
2. Both the Question and Answer session and the Mock Auction are designed to enable Qualified Bidders to become familiar with the Bidding Procedures .
3. While participation in the Question and Answer session is voluntary, that of the Mock Auction is mandatory for all Bidders in order to ensure an efficient auction process.

## **Auction Event**

In this section, we outline the procedures, and processes that will be applied during the auction event.

## **Procedures to be Followed During the Auction Event**

The procedures that all bidders are required to follow during the Auction event are set out in the text below. Egregious behaviour on the part of a particular bidder will result in sanctions and/or disqualification from the auction event.

1. All Bidders shall congregate in the Main Auction Room at 8:00AM, October 17<sup>th</sup> 2016 at the following address: The Hotel Royal ACE, Innwa Building, located at the following address: Block 15/16, Taw Win Yadanar Road, National Guest House Compound, Dekhina Thiri Township, 11861 Nay Pyi Taw, Myanmar, i.e. no less than one hour prior to the commencement of the Auction event at 9:00AM, in order to receive the necessary briefing and any documentation from the Auction Manager.
2. Each Bidder shall be notified of the individual room that has been reserved for its use during the Auction as well as the Starting Time and Ending Time for each day of the auction by the Auction Manager.
3. Each Bidder shall then be escorted to its individual room when directed by the Auction Manager

4. The 2600MHz auction Starting Time will be at 9:00AM and will continue to the Ending Time which shall be no later than 8:00PM.
5. In each round, runners will bring the Bidders' bids to the Main Auction room in order to register the Bids and/ or Waivers or Drop out Forms to the Auction Manager in accordance with Auction Rules.
6. Reserve Prices will be set for all TDD lots depending on their characteristics: overall population, urban versus rural split in population. The Reserve prices will be set as the lower end of the market price for which the said spectrum could be sold.
7. The Reserve Price shall be expressed in USD and shall be revealed to Bidders at the same time as first Round Bids are opened so as to not influence the Bidder's decision with respect to the value of the spectrum in question while simultaneously guaranteeing a transparent process.
8. In the Auction, a bidder must submit its bid in Round 1. The price in the Round 1 for the lots will correspond to the reserve price set by the Auction Manager.
9. If no Bid is placed by a Bidder in Round 1, then that Bidder will not be eligible to participate further in the Auction.
10. If no bids are made for a particular lot during the course of the auction, the lot will remain the property of PTD as the Spectrum Manager.
11. At the end of each Round, the Auction Manager will first verify the validity of Bids and Waivers and then post the following information:
  - a. the bid price for each lot in the particular round,
  - b. the lots with excess demand (ED),
  - c. the incremental bid price,
  - d. total number of valid Bids,
  - e. the number of Bidders,
  - f. the number of Waivers, and,
  - g. the number of Drop outs

This information will be posted by the Auction Manager on a paper bulletin board and an electronic bulletin board designated exclusive for use by the bidders for the duration of the auction. No information with respect to Bidder identity will be made public during the Auction..

12. The Auction Manager reserves the right in its sole discretion, to adjust the minimum acceptable bid (MAB) Price Increment in each Round in light of the results of the previous Rounds. The MAB Price Increment for each Round will be indicated as a percentage increase over the price in the current round and correspondingly, be indicated as a numerical value expressed in USD rounded up to the next USD. The Auction Manager may also differentiate in the MAB Price increments for lots with ED versus those without ED.

13. In Round 2 and subsequent rounds, the Auction Manager will set the price that is equal to the MAB from the previous round and the Price Increment for the current round.
14. Bidders will have the opportunity to submit a new Bid in each Round at time intervals to be established by the Auction Manager.
15. In the Round 1, bidders will be given time at the Auction Manager's discretion to familiarize themselves with the auction process and procedures. The results of the first round will be announced after the submission of bids.
16. Bidders will be given sufficient time to prepare for the second bid round. In subsequent rounds the duration of the auction bid interval will be gradually diminished as bidders become more familiar with the bidding process. Bidders will be advised in advance of any changes in time intervals.
17. Bidders will be legally and financially responsible for each and every one of their bids in each round.
18. If in any Round for any particular lot, the number of bidders (2 or more) exceeds the number of lots (1), the Auction Manager will advise Bidders of this situation by designating the Lot as having 'Excess Demand'. Conversely, if there is only 1 bid or no bids for the particular lot, then the lot will not be designated as having 'Excess Demand'. This information will be published at the end of each round to assist bidders in following overall bidding trends.
19. If there are one or no bids for a lot in a particular round, then in the subsequent round, the application of the MAB price increment will be subject to the Auction Manager's discretion.
20. The Auction Manager will consider that there is still competition for Lots in a given bidding Round if there are two or more Valid Bids, or if there is a Valid Bid and a valid Waiver filed in that Round.
21. Bidders must submit a Bid in Round one and a Bid and/or a Waiver in each subsequent Round for each lot for which they wish to Bid in order to maintain eligibility subject to Paragraph 22 below. These Bids and Waivers will be verified.
22. In order to ensure that the Auction will offer an opportunity for Price Discovery, Bidders will be given two Waivers as described in the Definitions of Terms. If the bidder's eligibility is for 1 lot, then the waiver can be used for only 1 lot. If the bidder's eligibility is for 2 lots, then the waiver can be used for either 1 or 2 lots
23. If a Bidder decides to Bid on a lot in a given Round after submitting a Waiver in the previous Round, its Bid shall be equal to the Minimum Acceptable Bid for that lot in the particular round.
24. Bidders cannot use Waivers in consecutive rounds.
25. A Bidder can submit a Drop-Out Form in any Round, after the first Round, in order to indicate termination of participation in placing Bids for the duration of the Auction.

26. A Bid submitted in any particular Round represents a binding agreement that the Bidder in question will purchase that number of Lots at any Bid they submit which becomes a winning Bid. Bids may not be withdrawn during the Auction.
27. The last Valid Bid received from a Bidder by the Ending Time of the Auction will be deemed to be that Bidder's Final Bid.
28. The Final Bids for specific Lots of spectrum will be recorded. The Selling Price for a specific Lot of spectrum shall be set according to the Second Price Rule which designates the Standing High Bid price from the previous applicable round for that Lot as the relevant price to be paid by the Winning Bidder for that lot at the end of Auction.
29. The Auction Manager, the Legal Consultant (DFDL), and the Director of the Legal Department of the Authority will review the auction processes and the results with regards to fairness and transparency. An Auction Audit Report to be signed by all three parties, will be published after completion of the auction. In the case that the auction processes and results are deemed to be fair and transparent, the Winning Bidders will be published along with the Auction Audit Report.
30. The Authority will announce the results of Auction Audit Report and the Winning Bidders as per the Schedule indicated in Table 1.
31. It is anticipated that the entire Auction process will likely be concluded in one or two days starting on October 17<sup>th</sup>, 2016. If an additional day is required, the auction will carry over into October 18<sup>th</sup>, 2016. In the unlikely scenario that the auction is not concluded in 2 days, provision has been made to continue the auction if necessary on October 19<sup>th</sup>, 2016.

## **Forms and Processes for the Auction Event**

The various forms in use during the Auction event can be broadly separated into Bidders' forms and Auction Manager's forms.

### **Qualified Bidders Auction Forms**

The Bidder's package to be issued to qualified Bidders on simultaneous to the announcement of qualified Bidders will consist of the following four forms which will be distributed to the bidders as per auction schedule:

1. Bidder Registration and Authentication Form
2. Round-by-Round Bid Form
3. Waiver Forms
4. Drop out Form

The purpose of each form is described in the text below.

#### **1. Bidder Registration and Authentication Form**

The purpose of this form is to register and authenticate Bidders for the auction of the spectrum. The form contains information on the name, signature and initials of authorized representatives of Bidders and those Bidders are required to fulfil the following functions on a round-by-round basis:

- Specify the number of auction lots they wish to bid upon (Bidders are only allowed to enter up to two lots)
- Deliver the bid registration form to the Auction Manager.

## **2. Round by Round Bid Form**

The purpose of this form is to allow the authorized representative of the Bidder to indicate the desired spectrum Lots, as well as the bid price the bidder is willing to pay for each Lot of spectrum that they wish to acquire, on a round-by-round basis. A round-by-round Bid Form is to be used by bidder.

An electronic Microsoft Excel Spreadsheet has been created for the tracking round-by-round auction results.

## **3. Waiver Form**

The purpose of the Waiver Form is to allow Bidders to exercise their waiver right (right to abstain from bidding in a particular round), subject to the restrictions specified in the Auction Rules – namely:

- A maximum of two waivers are allowed per Bidder;
- A waiver cannot be exercised in the first round; and,
- Waivers cannot be exercised in consecutive rounds.

Bidders will be provided with two waiver forms in total for use in the course of the auction.

## **4. Drop Out Form**

The purpose of the Drop Out form is to allow a bidder to clearly indicate to the Auction Manager of its intent to drop out of the auction and to eliminate potential ambiguity of alternative actions such as using successive waivers.

## **5. Auction Manager's Forms and Files**

The Incident Report Form has been designed to ensure the Auction Manager can fulfil its role during the auction event:

Additionally, an electronic Microsoft Excel Spreadsheet – designed for the tracking round-by-round auction results and identification of winning bidders, has been created.

These forms and files are designed for the use of the Auction Manager and the Authority and will not be distributed to Bidders.

### **Incident Report Form**

The purpose of the Incident Report Form is to document egregious conduct on the part of the qualified bidders and / or outside parties that would compromise the integrity of the bidding process. This conduct includes collusion amongst the Bidders and / or third parties in establishing bid prices or otherwise colluding or conducting themselves in a manner inconsistent with the Auction Rules. Incidents may be reported by the Bidders and / or witnessed by the Auction Manager, the Authority, or their respective agents or employees.

It is the responsibility of the Nordicity as Auction Manager to note any suspicious activity on a round-by-round basis and, in the absence of any incident, to indicate 'none' on the Incident Report Form.

In the case that any incident is reported, in addition to documenting the incident in the Incident Report, the Auction Manager must decide on the appropriate course of action to recommend to the Authority: cautioning the bidders, temporarily suspending the auction to further investigate the incident, or cancelling the auction event.

### **Bid Tracking and Attribution of Spectrum Frequency to Winning Bidders**

A Microsoft Excel Bid Tracking and Record of Winning Bids Spreadsheet will be used to track round-by-round results as well as to identify winning bidders for the attribution of spectrum Lots.

The purpose of this sheet is to track the bidding results and perform the arithmetic (MAB Price Increments, MAB, rounding to nearest USD, etc.) quickly. This sheet will be used to produce Portable Document Format (PDF) files of the round-by-round results for display on the results board in the Main Auction Room.

The result for each rounds will also be in available on a Paper Bulletin Board.

### **Post Auction Process**

In this section, we describe the processes and parameters that will be followed post-Action for winning and non-winning bidders. Separate forms that codify these processes and parameters, will be issued to Winning Bidders immediately in the post auction period.

1. The Bid Deposit of Qualified but Non-Winning Bidders will be released within 60 days after successful completion of the Auction event.
2. The Bid Deposit of Winning Bidders will be released within 30 days after receipt of the first Spectrum Fee payment – as detailed below.
3. Each Winning Bidder will be granted a 15-year Spectrum Authorization in the prescribed form in accordance with the Telecommunications Law and containing the terms and conditions under Spectrum Rules that are in issue at the time of the grant.
4. Winning bidders will be required to remit their Spectrum Fee in 3 payments:
  - a. 50% on the effective date of the Spectrum Authorization.
  - b. 25% within 1 year after the effective date of the Spectrum Authorization.
  - c. 25% within 2 years after the effective date of the Spectrum Authorization.
5. These payments will be deposited into the PTD Bank Account. Winning bidders will also be required to post a **Performance Bond**. The amount of the Performance Bond will be calculated as 50% of the Reserve price paid of the lots for which they were successful bidders in the Auction. The amount of the Performance Bond will be identified in the Spectrum Authorization that will be provided to winning bidders.
6. Conditions of License (CoLs): Winning Bidders will be required to respect the various Conditions of License including the following:
  - a. **Compliance with Legislation, Regulations and Other Obligations:** Licensees are required to abide by the requirements set out for use of the radio frequency spectrum in general and for the specific frequency band being licensed. These requirements are fundamental, and in some cases, they are legislative requirements.
  - b. **Roll-Out Requirements:** Winning bidders will be required to roll-out their advanced broadband data network on a regional basis in a progressive fashion as specified in the Table below:

	Roll out Requirements in Regions (by population)		
	Region 1	Region 2	Region 3
By Year 5	30%	50%	35%

- c. **Bandwidth Throughput:**
  - i. the Winning Bidders/licensees will be required to support a minimum bandwidth speed of 5 Mbps to each customer by the end of the 1<sup>st</sup> year of operation;
  - ii. in the subsequent years, PTD will reevaluate the appropriate minimum bandwidth speeds taking into account the needs of Myanmar consumers and businesses in the license areas as well as ASEAN's broadband average speed.

- d. **Annual Reporting:** Winning Bidders/Licensees must submit an annual report for each year of the license term, which includes the following information:
- i. A statement indicating continued compliance with all conditions of license;
  - ii. An update on the implementation and spectrum usage within the area covered by the license;
  - iii. Existing audited financial statements with an accompanying auditor's report;
  - iv. A copy of any existing corporate annual report for the licensee's fiscal year with respect to the authorization; and
  - v. Other information related to the license as specified in any notice updating the reporting requirements as issued by the Authority.
7. Quality of service parameters and standards:
- The quality of service parameters and standards will be finalized by the Authority in the post auction period after negotiations with the Winning Bidders and will be implemented in a progressive fashion. These quality of service parameters and standards will become part of the Winning Bidder's CoLs.
8. Any Winning Bidder that defaults or is disqualified after the Conclusion of the Auction will be subject to default rights and remedies in favour of the Authority.
- a. A winning bidder can be disqualified for the following reasons:
    - i. The Winning Bidder fails to remit either the performance bond or required payments of the Spectrum Fee into the Authority account within the prescribed period of time, or
    - ii. The Winning Bidder has violated any of the Auction Rules or the provisions of the Qualified Applicant Agreement or the Final Bidder Agreement (whether such violation occurs before or after the Conclusion of the Auction)
  - b. The default rights and remedies available to the Authority in those circumstances include:
    - i. The Authority can hold the Winning Bidder liable for the Bid Deposit (as established for the particular 20MHz Spectrum at the beginning of the auction)
    - ii. The Authority can disqualify a Winning Bidder from proceeding to the Licensing stage.

[End of the Document]

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