

MEMORANDUM CIRCULAR
NO. 09-10-97

SUBJECT: PUBLIC MOBILE TELEPHONE SERVICE(PMTS)

Pursuant to RA7 925 and its Implementing Rules and Regulations, Commission hereby promulgates the following:

1. PMTS operators shall be authorized to operate in the allocated radio frequency bands for PMTS.
2. The following implementation timeframe shall be strictly complied with by authorized operators in the provision of public mobile telephone service (PMTS)

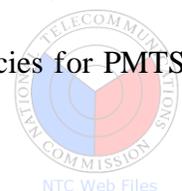
At least 40% of all cities and municipalities shall have PMTS coverage within two (2) years from date of authority and at least 80% on the third year. The grade of service shall be at least 0.03.

The above implementation time frame shall apply simultaneously in Luzon (Region I,II,III, IV and CAR), Visayas (Region VI,VII and VIII including Palawan Province), Mindanao (Regions IX,X, XI, XII, ARMM and CARAGA), and the NCR.

3. Telecommunications companies with applications for PMTS which have completed the presentation of evidence in support of their application, both oral and documentary shall be evaluated and qualified within forty five (45) days from the effectivity of this circular on the basis of the following, to wit:
 - a. legal capacity
 - b. financial capacity including payments of fees due
 - c. technical capacity

For applicants with commitments/obligations under their respective LEC authorizations, full compliance to their commitments/obligations based on their obligations in their approved roll-out plan pursuant to the Memorandum of the Secretary of the Department of Transportation and Communications dated 19 September 1996 as of the third quarter of 1997 shall be considered in the evaluation and qualification of the applicants.

4. If the number of qualified applicants exceeds the allocated radio frequencies for PMTS, bidding shall be conducted.



Bidding Procedure

5. The Commission shall appoint the members of the 5-man "Bid Committees" not later than 30 days from the effectivity of this circular. Only one representative from any of consumers/users groups shall be appointed as an observer. The function of the bid committee shall end after the winning bidders are officially announced except as provided for in Section 11 and Section 15 of this circular. The bid committee shall submit the results of the bidding to the Commission on the day of the bidding for approval.
6. A pre-bid conference shall be held not later than fifteen (15) days after the list of qualified applicants is released. During said conference the bid floor price shall be announced. The terms and conditions of the bid including the bid terms of reference and other relevant information shall be presented and discussed during the said conference. At said pre-bid conference, all qualified applicants shall execute an accession document, which sets forth their acceptance of all the rules of the bidding, including the list of qualified applicants, and all the other terms and conditions of the bidding.
7. The bid shall include certified true copy (ies) of the bid bond which shall less amount not be than of the bid or equivalent to 50 times the floor price. In case the winning bid is less than the bid bond the winning bidder can withdraw the excess amount or if the winning bid is more than the bid bond the winning bidder shall increase the amount of the bid bond equivalent to the winning bid within two (2) working days from is determined.
8. The allocated radio frequencies (RF) for PMTS shall be bidded out one RF band at a time with a one-day interval. One RF band shall be bidded for nationwide operations and the other two RF bands by service zones. The bidding for nationwide operations shall be conducted on day one. The winning bidder shall pick the RF band of its choice. The remaining RF bands shall be bidded for zonal operations.

The service zones shall be:

Visayas Service Zone consists of Regions VI, VII and VIII including Palawan Province.

Mindanao Service Zone consists of Regions IX, XI, XII, CARAGA and ARMM.

Luzon Service Zone consists of Regions I,II,III,IV excluding Palawan Province, V and CAR.

NCR Service Zone consists of all cities and municipalities in the National Capital Region.

9. The winning bidder for nationwide operations shall be disqualified from participating



in the bidding for zonal operations. Winning bidder per RF band in a particular service zone shall be disqualified to participate in the bidding for the other RF band in the same service zone but can bid in the other service zones.

10. The bidding shall be open to the public to observe and shall be conducted within 90 days from the effectivity of this circular.
11. The highest bidder per band shall be declared winner. In case of tie, the Commission shall conduct a rebidding where only the applicants who tied shall participate within two (2) working days from date of public bidding. The amount of the bid should not be less than the last bid. The “bid committee” shall supervise the tie-breaking bidding.
12. The winning bidders shall remit to the Commission the first payment equivalent to 30% of the bid price within 15 days from the date of the bidding. The remaining 70% of the bid price shall be remitted to the Commission not later than 120 days from the date of the first payment. Thereafter, the winning bidders shall pay annual SUP computed in the in the same manner as that of the annual SUF for CMTS.
13. The Commission shall issue provisional authority to install, operate and maintain public mobile telephone service to the applicants who win in the bidding within 30 days after the applicant/s is/are declared winner/s without prejudice to the issuance of a Certificate of Public Convenience and Necessity when the Commission finds merit in the issuance of the same.
14. The transfer of previously authorized users in the frequency bands allocated and assigned shall be governed by Rule 603 of MC3-3-9 5.
15. In the event that the winning bidder is rejected for submitting a non-conforming bid or otherwise fails to comply with any of its obligations as provided for in this circular including but not limited to non-signing of the award papers, non-payment of bid price; and non-compliance with the time frame of implementation pursuant Section 2 hereof, the Commission shall have the authority to cancel the award to and the provisional authority of the winning bidder. In this instance a re-bidding shall be conducted within 90 days from the date the winning bidder is rejected. The “bid committee” shall supervise the re-bidding.
16. The above-described bidding procedure is applicable for new frequency allocations for PMTS.
17. This circular supersedes, amends, or modifies existing circulars, orders and guidelines that are inconsistent herewith.
18. This circular may be revised, revoked or amended as necessary in accordance with law and shall take effect fifteen (15) days after publication in a newspaper of general circulation and three (3) certified copies furnished the UP Law Center.



SIMEON L. KINTANAR
Commissioner

FIDELO Q. DUMLAO
Deputy Commissioner

CONSUELO S. PEREZ
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