

Form 10—Eligibility nomination form

For the purposes of sections 29 and 35 of the Radiocommunications (Spectrum Licence Allocation – 3.6 GHz Band) Determination 2018.

Introduction

This eligibility nomination form has been approved by the Australian Communications and Media Authority (ACMA) pursuant to subsection 28(2) of the Radiocommunications (Spectrum Licence Allocation – 3.6 GHz Band) Determination 2018 (Allocation Determination).

Subsections 29(2) and 35(6) of the Allocation Determination provide that an applicant is required to give the ACMA a completed eligibility nomination form, which:

- (a) specifies the number of lots of each product wanted by the applicant as valid start demands of the applicant for the first clock round of the primary stage, at the starting price for the lots of the product; and
- (b) specifies the initial eligibility points of an applicant based on those specified start demands; and
- (c) in relation to each product, either does not select a minimum spectrum requirement, or selects only one option as the minimum spectrum requirement, for the lots of each product.

The amount required to secure the initial eligibility points specified by the applicant in this form is calculated in accordance with subsection 38(2) of the Allocation Determination and Part 3 of this form.

This eligibility nomination form must be used by applicants for the purposes of specifying the start demands, calculating initial eligibility points and, if the applicant wishes, selecting a minimum spectrum requirement (MSR) for relevant products.

This form also provides guidance about how to:

- > nominate start demands
- > select minimum spectrum requirements for products
- > calculate initial eligibility points
- > secure initial eligibility points and make an eligibility payment and/or provide a deed of financial security.

About start demand

Pursuant to subsection 29(2) of the Allocation Determination, applicants are required to nominate their start demand in the eligibility nomination form. Before the auction commences, and subject to subsections 36(2) and 38(4) of the Allocation Determination, the auction manager will enter into the auction system the start demand and MSR selected (if any) for each product for each bidder as specified in the eligibility nomination form. Applicants should note:

- > start demands are used to determine the number of initial eligibility points an applicant will need to secure, and therefore affect the bidder's ability to bid in the first clock round of the primary stage of the auction (and all subsequent clock rounds);

- > an applicant's ability to specify start demands for each product for the first clock round of the primary stage of the auction is subject to the validity criteria specified in section 30 of the Allocation Determination.
- > the start demands nominated by an applicant in this form may result in the **allocation of some or all of the nominated products at the starting price** (subject to, amongst other things, demand for the nominated spectrum, the auction process and the auction rules).

An overview of the auction rules, and an example of how they may work in practice, is provided in the *Auction guide*.

About the MSR

The ACMA has set one option for the MSR: two lots (10 MHz).

Applicants will need to decide whether or not they wish to use the MSR feature in the auction by setting the MSR for each of the products as 'on' or 'off'. If an applicant wishes to use the feature, they must set their MSR before the auction via this form. Applicants should note:

- > a selection of 'on' for a product means the applicant has selected that the MSR option of two lots applies to the product;
- > an applicant may set the MSR as 'on' or 'off' for each of the different products. Pursuant to subsection 37(2) of the Allocation Determination, if a selection is not made, the applicant is taken to have no MSR for the lots of the product;
- > an applicant may set the MSR as 'on' for any product, even if they have specified a start demand of 'zero' for a product, or have not specified a start demand for a product
- > if the MSR is selected for a product, the auction system will prevent a bidder being left with one lot of the product;
- > if a bidder, who has set their MSR to 'on' for a product, does not 'win' any spectrum of that product during the primary stage, that bidder will not be permitted to bid for that product in the secondary stage.

Further information about the MSR is available at section 3.1.1 of the *Auction guide*.

About initial eligibility points

Initial eligibility points, secured by an applicant in accordance with sections 37 and 38 of the Allocation Determination, determine an applicant's maximum eligibility (expressed in eligibility points) for bidding in the first clock round of the primary stage of the auction.

In accordance with subsection 37(1), and subject to subsection 37(3) of the Allocation Determination, the maximum number of initial eligibility points that an applicant may specify in its completed eligibility nomination form is the sum of the lot ratings for the number of lots of each product, up to the applicant's allocation limits (expressed in eligibility points):

- > applicable to the product, other than the Perth lower band product and the Perth upper band product; or
- > applicable to the Perth combined products.

The number of initial eligibility points specified in the completed eligibility nomination form may be reduced in the circumstances set out in section 36 and subsection 37(3), and in accordance with section 38.

Pursuant to subsection 12(2) of Schedule 1 of the Allocation Determination, a bidder is not entitled to bid in such a way that the sum, in eligibility points, of:

- (a) the total value of the lots of each product, in eligibility points, for the start demands of the bidder; and
- (b) the total value of the lots of each product, in eligibility points, for all the increase bids of the bidder;
less:
- (c) the total value of the lots of each product, in eligibility points, for all the decrease bids of the bidder;

in any one clock round is greater than the bidder's eligibility points at the time of the bid or bids.

How to complete the eligibility nomination form

To complete the eligibility nomination form:

- > In Part 1: Provide applicant details.
- > In Part 2: Provide details of the applicant's start demands and MSR, and calculate the applicant's initial eligibility points.
- > In Part 3: Calculate the amount required to secure initial eligibility points
- > In Part 4: Nominate the method by which you intend to secure initial eligibility points, read the declaration and sign the form.

When to give the eligibility nomination form to the ACMA

If an application is made under section 29 of the Allocation Determination, the eligibility nomination form must be given to the ACMA before the eligibility deadline. An application is incomplete if the applicant fails to give the eligibility nomination form before the eligibility deadline. The eligibility deadline is published by the ACMA on its website and included in the *Auction guide*.

If an application is made under section 35 of the Allocation Determination, the eligibility nomination form must be given to the ACMA before the eligibility deadline or, if the ACMA agrees to a later time, the agreed time.

How to give the eligibility nomination form to the ACMA

The eligibility nomination form must be given to the ACMA in accordance with the procedures for giving documents to the ACMA set out in the Allocation Determination.

A summary of the procedures (including an email address, fax number and physical address for giving documents to the ACMA) is provided at the beginning of the *Auction forms* booklet. The procedures are also summarised under the heading 'Giving documents to the ACMA' in the *Auction guide*. The procedures contain specific requirements where a document is given by email or fax.

Who should sign the eligibility nomination form

Where the ACMA receives an eligibility nomination form from an applicant that is a body corporate, the form must be signed by a director, a secretary or an authorised officer of the body corporate.

Where the ACMA receives an eligibility nomination form from an applicant that is an individual, the form must be signed by that individual.

Who can witness signing the eligibility nomination form?

The signature of the applicant or authorised person of the applicant on the eligibility nomination form must be witnessed by a person who is above the age of 18.

How to make an eligibility payment or give a deed of financial security

Information about how to make an eligibility payment, and how to give a deed of financial security, is provided at Part 4 of the form.

Part 1: Applicant details

Applicant's name:

enter applicant's name as it appears in Part 1 of the application form submitted
by the applicant under section 29 or section 35 of the Allocation Determination

Applicant's ACN/ABN/ARBN (if applicable):

enter ACN/ABN/ARBN as is appears in Part 1 of the application form submitted by the applicant
under section 29 or section 35 of the Allocation Determination

Part 2: Start demands, minimum spectrum requirements and initial eligibility points

The instructions below involve entering information into Table 1 on the page below.

Completion of Table 1 is mandatory.

To specify start demand

For each product, enter in Column H the number of lots of each product you wish to specify as your start demand for the auction. If you do not wish to specify a start demand for a particular product, enter '0'. Leaving the row blank signifies a '0' entry.

In specifying start demands, applicants should have regard to the allocation limits described in Part 2 of the Allocation Determination. For the purposes of the allocation limits, the Perth upper band product and the Perth lower band product are treated as just one product.

Bidders should be aware they may 'win' the start demand they have specified in this form. If aggregate start demand (demand from all bidders) is below supply for a certain product and remains so until the conclusion of the primary stage of the auction, the bidder will be liable to pay the starting price for their start demand for that product.

Part 3 of this form explains how the start demand is used to calculate the amount of the eligibility payment to be made or deed of financial security to be given.

To select whether or not to apply the minimum spectrum requirement

For each product, indicate in Column J whether the applicant wishes to select the MSR for that product. Enter 'on' to select the MSR for the product (being 2 lots of the product). Enter 'off' if the applicant does not wish to select the MSR for the product (being zero lots of the product). Leaving a cell in Column J blank will result in the MSR for that particular product to be set to 'off'.

To calculate initial eligibility points (Box K)

1. For each product, multiply the number you entered on Column H (start demand in lots) by the number in Column F (the lot rating) and enter the result in Column I.
2. Add all of the entries you made in Column I, and enter the result as a number in Box K.

Table 1: For use by applicants to specify start demands, calculate initial eligibility points and select the minimum spectrum requirement

Applicants should refer to the instructions. The dollar value set by the ACMA for each initial eligibility point for the auction in accordance with paragraph 28(1)(a) of the Allocation Determination is \$500 per eligibility point.

A	B	C	D	E	F	G	H	I	J
Cat.	Product	Bandwidth	Region	No of lots available	Lot rating	Starting price per lot	Start demand (in lots)	Lot rating multiplied by start demand (Column F x Column H)	MSR ('on' = 2 lots or 'off' = 0 lots)
1	ADEL01	5 MHz	Adelaide	25	60	\$536,000			
1	BRIS01	5 MHz	Brisbane	25	100	\$880,000			
1	CANB01	5 MHz	Canberra	25	20	\$184,000			
1	MELB01	5 MHz	Melbourne	25	200	\$1,898,000			
1	SYDN01	5 MHz	Sydney	25	200	\$2,164,000			
2	PERT01	5 MHz	Perth	16	100	\$538,000			
3	PERT02	5 MHz	Perth	9	100	\$811,000			
1	NQLD01	5 MHz	North Queensland	25	10	\$40,000			
1	CQLD01	5 MHz	Central Queensland	25	20	\$95,000			
1	RNSQ01	5 MHz	Regional Northern NSW/ Southern Queensland	25	100	\$344,000			
1	RSWN01	5 MHz	Regional Southern/ Western NSW	25	60	\$226,000			
1	RVIC01	5 MHz	Regional Victoria	25	60	\$225,000			
1	TASM01	5 MHz	Tasmania	25	20	\$79,000			
1	RESA01	5 MHz	Regional South Australia	25	10	\$58,000			
1	REWA01	5 MHz	Regional Western Australia	25	10	\$49,000			
The total number of initial eligibility points that an applicant may nominate in Box K is the total of the start demand (in lots) multiplied by the relevant lot rating.							Total of Column I (Box K)		

There are 13 products with 25 lots and two products (in the Perth region), one with 16 and one with nine lots, for a total of 350 lots.

Explanatory notes to the columns and boxes in Table 1

- A. Specifies the categories for the 3.6 GHz band, as identified in Table 1 of Schedule 1 to the *Radiocommunications Spectrum Marketing Plan (3.6 GHz Band) 2018*.
- B. Specifies the product to which a lot belongs, as identified in Table 1 of Schedule 2 to the *Radiocommunications Spectrum Marketing Plan (3.6 GHz Band) 2018*.
- C. Specifies the bandwidth of each lot of a product.
- D. Specifies the region relevant to each product, as identified in Schedule 3 to the *Radiocommunications Spectrum Marketing Plan (3.6 GHz Band) 2018*.
- E. Specifies the number of lots of a product that are available for allocation.
- F. Specifies the lot rating for each lot of a product, set by the ACMA in accordance with paragraph 28(1)(b) of the Allocation Determination.
- G. Specifies the starting price for each lot of a product for the first round of the auction, set by the ACMA in accordance with paragraph 28(1)(d) of the Allocation Determination.
- H. This will be where the applicant enters the number of lots of each product that the applicant wishes to specify as its start demand for the auction.
- I. This will be where the applicant enters the number of eligibility points required to bid on the number of lots of a product entered by the applicant in column H. The figure to be entered in column I is calculated by multiplying the number of lots entered by the applicant in column H by the lot rating (in column F). Where an applicant has entered '0' in column H, they should also enter '0' in column I.
- J. This will be where the applicant selects whether the MSR is to apply in relation to a product. Applicants are able to set their MSR as 'on' (2 lots of a product) for products where they have not expressed start demand.

Box K. The sum of the calculation when adding the figures entered in column I for each product.

Part 3: Secure initial eligibility points

Applicants are required to make an eligibility payment and/or provide a deed of financial security to secure their initial eligibility points for the auction.

The amount required to secure the initial eligibility points specified by the applicant in this form is calculated by multiplying the total number of initial eligibility points (at Box K) by the dollar value of initial eligibility points set by the ACMA under paragraph 28(1)(a) (\$500).

Enter the resulting figure in Box L, below.

Total number of initial eligibility points x \$500 = \$ (Box L)

Part 4: Eligibility payment and/or deed of financial security for initial eligibility points

Step 1: To secure the initial eligibility points nominated in Part 2, indicate, by ticking the appropriate box(es) and entering dollar figures (that will equal the amount calculated in Part 3) as required, which option(s) you will use to secure your initial eligibility points:

- ☐ Option 1: giving a deed of financial security for \$ _____.
- ☐ Option 2: making an eligibility payment of \$ _____ by electronic transfer
- ☐ Option 3: making an eligibility payment of \$ _____ by bank cheque.

Note: The amount inserted by the applicant against Option 1 above should be the same as the amount inserted by the applicant in clause 1.1 of **Form 6—Deed of financial security**.

Step 2: Make an eligibility payment and/or give your deed of financial security before the eligibility deadline, in accordance with the procedures below.

Note: If an applicant makes an eligibility payment or gives a deed, or both, for an amount less than that worked out in this Part above, and another eligibility payment or deed, or both, is not made or given to make up the difference, initial eligibility points and start demands of the applicant are worked out by reference to subsection 38(4) of the Allocation Determination.

Eligibility payments must be made in Australian currency by either:

Electronic transfer:

Bank: ANZ Bank

Branch: Belconnen

BSB: 012-951 **Account no.:** 8379 24272

Account name: ACMA Official Administered Receipts

Transfers should be labelled: '36 eligpay [name of applicant]'

Note: Because transfer labels are limited to 15 alphanumeric characters, abbreviations must be used.

Evidence of the electronic transfer (for example, a transfer receipt) should be emailed to spectrumauctions@acma.gov.au as soon as practicable after the transfer is made.

Bank cheque:

Crossed 'not negotiable'

Made payable to: Australian Communications and Media Authority on behalf of the Commonwealth

Delivered to:

Auction Manager

Major Spectrum Allocations Section

Australian Communications and Media Authority

Red Building, Benjamin Offices, Chan St

Belconnen ACT 2617

Subsection 9(4) of the Allocation Determination sets out when an amount is taken to have been paid by a relevant deadline. An amount is taken to have been paid by a deadline if:

- > the ACMA receives a bank cheque for the full amount on or before the deadline;
- > the ACMA receives evidence that an electronic transfer of the full amount was made on or before the deadline (for example, a transfer receipt) *and* the amount is received in the ACMA's bank account no later than three working days after the deadline; or
- > the ACMA receives other evidence that satisfies it that the person making the payment has taken all reasonable steps to pay the amount on or before the deadline.

An amount due under the Allocation Determination is not paid in full if bank charges or government duties imposed on a payment reduce the net payment to less than the amount due. An applicant or bidder must add the value of any bank charge or government duty to the amount of their eligibility payment in order to secure their nominated initial eligibility points.

If you choose to give the ACMA a deed of financial security for all or part of the amount worked out in this Part, the deed of financial security must be given to the ACMA using **Form 6—Deed of financial security** in the *Auction forms* booklet accessible through the *Applicant information package*. The deed of financial security form contains information about how to complete the deed, who can execute the deed and how to lodge the deed with the ACMA.

GST is not payable on an eligibility payment.

Declaration and signature

I understand that a person who knowingly or recklessly makes a false or misleading statement in, or in connection with, an application is guilty of an offence under section 136.1 of the *Criminal Code*. I believe that the statements made by or on behalf of the applicant in this document and its attachments are true in every particular.

Signed by or on behalf of the applicant

Name of signatory where signed on behalf of the applicant

Signed at:

Place

On

Day / Month / Year

Before me,

Signature of person before whom the declaration is made

Name of person before whom the declaration is made

Note It is a serious offence under Part 7.4 of the *Criminal Code* to give false or misleading information to the Commonwealth.