

## Auction rules – Allocation of licence in the frequency bands 10 290 - 10 320 MHz and 10 640 - 10 670 MHz

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## **1. Introduction**

The competitive selection procedure that will be used by the Norwegian Post and Telecommunications Authority (NPT) to assign usage rights to spectrum in the bands 10 290 - 10 320 MHz and 10 640 - 10 670 MHz will be referred to as an auction. The use of the word "auction" shall not be interpreted as implying that the procedure is a formalised way of contract formation. The procedure is an administrative selection procedure under Norwegian administrative law, and the legal consequences of participation in the auction are described in these rules.

### **1.1. Legal consequences of bidding**

By bidding, the bidder agrees to be bound in accordance with these rules. Bids are unconditional and irrevocable. Bids remain binding until 27 August 2010. Bidders may be released from their bids by notification from NPT before this date.

Bidders receiving a notification in accordance with the rules, cf. section 5, are obliged to pay the price of the bid, in the manner and to the place stated by the NPT.

### **1.2. Participation in the auction**

The auction will be run electronically over the public Internet using the auction web site [www.qxl.no](http://www.qxl.no). No specialist software is required, but bidders will need a reliable Internet connection. Authorised representatives of bidders will receive a username and password, which will be required to participate in the auction.

Any EEA or Swiss national or undertaking registered in the EEA or Switzerland may register for the auction.

### **1.3 Opening of the auction**

The Auction will start on 25 May 2010 at 11:00 CET.

## **2. Object of the auction**

### **2.1. Frequency block**

The available spectrum in the bands 10 290 - 10 320 MHz and 10 640 - 10 670 MHz will be sold as one lot. A national spectrum licence will be awarded to the winner of the auction.

### **2.2. Spectrum licence**

The spectrum licence will be assigned for use for terrestrial radio services on Norwegian land territory, except Svalbard, Jan Mayen and Norwegian dependencies. The spectrum licence will be valid from the date issued, until 31 December 2020.

The spectrum licence will be technology and service neutral; that is, the licensee will be free to choose which technology and service to implement in the frequency bands.

No coverage or roll-out requirements apply.

The licence will be tradable, including sale, lease etc. Transfer of a licence must however be approved by and registered with NPT.

The draft spectrum licence is published [here](#).

### **2.3. Administrative charges**

With reference to [Section 12-1 of the Electronic Communications Act](#), the model for administrative charges is laid down in [Regulation on Administrative Charges Payable to Norwegian Post and Telecommunications Authority](#) (in Norwegian only). Information on administrative charges payable to NPT is published [here](#).

The licensee is required to pay annual administrative charges. These will be levied from 2010 onwards.

<b>Estimated annual administrative charges for 2010</b>	
10 290 – 10 320 MHz and 10 640 - 10 670 MHz	NOK 62 000,-

There are no annual fees in addition to the administrative charges payable to NPT.

## **3. Registration**

Bidders must be registered in order to participate in the auction. Registering does not commit a bidder to submit a bid.

NPT decides whether registration has been successful or not based on the rules set out below.

### **3.1 Documents and general requirements for registration**

Registration involves the following documents:

#### **A) Registration form**

The registration form includes requests for information about the bidder and its authorised representative, as well as a number of declarations concerning inter alia collusion.

#### **B) Guarantee**

A guarantee is payable on demand, and may be used by NPT in case a declared winner fails to pay for the licence.

Due to the Norwegian State acting as self insurer, central bodies and categories of bodies governed by public law are exempted from presenting a bank guarantee. The NPT decides which bodies fall under the exemption.

The guarantee amount is NOK 100 000. The overall objective of the guarantee is to ensure that those registering for the auction have a genuine interest in the available frequency resource. The size of the guarantee is in no way related to NPT's expectations concerning the possible value of the frequency resource and, hence, the final outcome of the auction.

The size of the guarantee does not restrict bidders with regard to how much they are permitted to bid during the auction; in other words, as the auction proceeds, the value of a bidder's bids may well exceed the amount guaranteed by the bidder.

The guarantee must be valid until 27 August 2010. It must be issued by a financing institution registered in the European Economic Area (EEA), and otherwise meet the requirements stipulated by NPT.

### **C) Declaration on unauthorisation to impede the payment under the guarantee**

This declaration is related to the guarantee.

**Formal requirements for registration are summarised in the table below:**

<b>Doc. no.</b>	<b>Forms</b>	<b>Compulsary use of NPT form</b>	<b>Signature required</b>
1	<a href="#">Registration form and bidder information</a>	Yes	Person(s) entitled to sign for the Bidder
2	<a href="#">Guarantee</a>	Text only (No changes or additions compared to the NPT text)	Person(s) entitled to sign for "The Bank" in relation to the guarantee
3	<a href="#">Declaration on unauthorisation to impede payments</a>	Yes	Person(s) entitled to sign for the Bidder

Only original documents (i.e. no duplicates) will be accepted.

Documents must be delivered or sent to NPT in a sealed envelope marked "10 GHz Auction registration".

NPT will only accept registration if documents are delivered in person or by mail within the deadline.

### **3.2 Procedure for submitting documents in person**

If documents are delivered in person, appointments for delivery must be made beforehand with Mr. Andreas Askland or Mr. Anders Johansen (telephone number: + 47 22 82 46 00).

Mr. Askland or Mr. Johansen will provide further instructions regarding delivery. The address for delivery in person is the Norwegian Post and Telecommunications Authority, Nygård 1, Lillesand.

**The deadline for documents delivered in person is 19 May 2010, 1500 CET.** The bidder must ensure that documentation is complete and in accordance with requirements. The bidder assumes the risk of ensuring that documents reach the relevant contact person in NPT before the deadline. The deadline will be enforced rigorously.

Written receipts, confirming that registration documents have been received, will be issued by NPT.

### **3.3 Procedure for sending documents by mail**

Documents shall be sent to:  
Norwegian Post and Telecommunications Authority  
Att: 10 GHz Auction  
P.O. Box 93  
N-4791 Lillesand  
Norway

**The deadline for documents sent by mail is 19 May 2010, 1500 CET.** The bidder must ensure that documentation is complete and in accordance with requirements. The bidder assumes the risk of ensuring that documents reach the NPT letter box before the deadline. The letter box will be emptied immediately after the deadline. Documents are regarded as having been submitted in time if they are received by NPT before the deadline. The deadline will be enforced rigorously.

E-mail receipts to confirm that registration documents have been received will be issued.

### **3.4 Opening of registration documents**

The registration documents will be opened by NPT 20 May 2010. The authorised persons of the bidders will receive a user name and a password from NPT. Registration documents that have not been delivered within the deadline, cf. section 3.2 and 3.3 above, will be rejected and returned.

## **4. Auction**

The auction will be an open ascending price auction. The registered bidders must use their user name and password to log in to the auction on [www.qxl.no](http://www.qxl.no). The highest current bid will be displayed on the auction web site. Only registered bidders may submit bids. Qxl will provide further information on the auction web site.

### **4.1 Bids**

The registered bidders can place their bids in the auction. The starting price is NOK 5 000, and the bid increment is minimum NOK 1000. The auction opens 25 May 2010 at 11:00 CET and close 27 May 2010 at 11:00 CET. If a bid is placed within the last minute of the closing time, the closing time will be extended with one minute from when the bid was placed. This will continue until the last bid has been standing high in one minute.

#### **4.2 Winner of the auction**

The bidder with the highest bid when the auction is closing wins the auction.

If only one person or undertaking register for the auction, this person or undertaking will be awarded the licence without any bidding.

If no person or undertaking register for the auction, the frequency licence will remain available.

#### **5. Grant stage (end of the auction procedure)**

After the auction has been concluded, the bidder with the highest bid will receive a notification from NPT. The notified bidder shall pay the winning bid in full within 10 – ten – working days after NPT has made the notification. After settlement, NPT will issue the frequency licence.

#### **Payment shall be made to:**

Post- og teletilsynet  
P.O. Box 93  
N-4791 Lillesand  
Norway  
(DnB NOR) - acc.no. 7694 05 01632

In case of international money transfers, the following additional information must be included:

IBAN: NO 79 7694 05 01632  
SWIFT: DNBANOKK  
Bank: DnB NOR

In case of non-payment, or delayed or incomplete payments, licence will not be assigned. In such a case, NPT has the right to submit requests for payment under the guarantee and to cover any unpaid portion of the bidder's bid by means of administrative enforcement.

NPT may in such a case issue notification to the bidder with the second-highest bid. This bidder will receive notification only when it has been made clear that there is no possibility of collusion among bidders under which colluding bidders would benefit from non-payment. The assessment of whether such a possibility exists is under the full discretion of NPT.

If delayed payment is caused by events constituting Force Majeure under Norwegian law, NPT will prolong the deadline for payment accordingly.

When the licence has been issued, NPT will inform bidders about the allocation and publish the name of the bidder that has been awarded the licence.

Once the licensing procedure has been completed, guarantees will be returned to those bidders to whom no licence was assigned. The guarantee will be returned to the bidder to whom the licence was assigned, once the bid has been paid in full.