

Requirements, conditions, and procedure to participate in the objective selection process through the auction mechanism, in order to grant permits for the use of the radio spectrum within the following frequency ranges:

- 703 MHz to 748 MHz paired with 758 MHz to 803 MHz, hereinafter the **700 MHz band**.
- 1,865 MHz to 1,867.5 MHz paired with 1,945 MHz to 1,947.5 MHz, hereinafter the **1900 MHz band**.
- 2,500 MHz to 2,525 MHz paired with 2,620 MHz to 2,645 MHz and, 2,540 MHz to 2,555 MHz paired with 2,660 MHz to 2,675 MHz, hereinafter the **2500 MHz band**.

The process will be carried out through timed sequential ascending combinatorial auction for multiple rounds, with emphasis on coverage, for the 700 MHz band and through timed sequential ascending combinatorial auction for multiple rounds for the 1900 MHz and 2500 MHz bands.

Those interested in the auction process must submit an express request within the period indicated in the resolution, consisting of:

- *“Request for Participation in the Objective Selection Process - 700 MHz, 1900 MHz, and 2500 MHz Bands”* (ANNEX I).
- *“Certificate of Independent Participation of the Bidder in the Objective Selection Process - 700 MHz, 1900, and 2500 MHz Bands* (ANNEX II).
- the documents proving compliance with the general participation requirements described below.

The request for participation must be signed by the legal representative of the interested party, duly accredited and with capacity for submission, or by proxy, accompanied by his or her signature (clear and complete name), addressed to the MINISTERIO.

The documentation must be submitted in Spanish, within an envelope that will be identified as *“Request for Participation in the Objective Selection Process - 700 MHz, 1900 MHz, and 2500 MHz Bands”* in accordance with ANNEX I, in original in hard-copy and one copy in CD medium. The copy contained in the CD must correspond to all the documents that make up the original application, duly scanned and in pdf format. The request for participation must be submitted with the pages numbered in ascending consecutive order.

GENERAL PARTICIPATION REQUIREMENTS. All natural and legal persons, as well as promises of future partnership, consortia, and temporary unions, that meet the following requirements may participate:

	CASE A Requirements for natural persons domiciled in Colombia	CASE B Requirements for legal persons domiciled in Colombia	CASE C Requirements for legal persons non domiciled in Colombia	CASE D Requirements for promises of future partnerships	CASE E For consortia and temporary unions
Be registered or committed to initiate the process of registration and incorporation into the TIC registry, referred to in Article 15 of Law 1341 of 2009, modified by Article 12 of Law 1978 of 2019 and its regulatory decrees, within fifteen (15) business days following the auction, if it becomes an assignee. CASE D: all members of the future society, together CASE E: each of the members of the consortium or temporary union	X	X	X	X	X
Not being involved in grounds of disability or prohibition of constitutional or legal order, in accordance with the regulations governing the subject. Applies to: Case A - Natural person Cases B and C - the legal entity concerned, its legal representatives, board members or board of directors or partners, except in joint-stock companies CASE D - those who sign the promise of partnership, its legal representatives, board members or board of directors or partners, except in joint-stock companies. CASE E - the members of the consortium or temporal union, its legal representatives, board members or board of directors or partners, except in joint-stock companies	X	X	X	X	X
Have their own experience for not less than four (4) years in the provision of telecommunications networks or services. CASE D: At least one of the people who sign the promise of partnership, which must hold majority participation, accredited through certification signed by the legal representative or his/her proxy CASE E: At least one of the members of the temporary union or consortium, which must hold majority participation, accredited through certification signed by the legal representative or his/her proxy	X	X	X	X	X
Have a duration of not less than 20 years plus two (2) additional years. And include within its company purpose, as the main activity, the provision of telecommunications networks or services.		X			
To be up to date regarding their obligations with the Fondo de Tecnologías de la Información y las Comunicaciones		X			
Foreign legal persons not having their domicile or a branch duly established and incorporated in Colombia must comply with all stages of the contractual process through a proxy, duly authorized to submit the application and act during the auction process			X		
In case of being awarded a use permit, commit to constitute within fifteen (15) business days following the auction, a company or branch in Colombia that includes as a main activity the provision of telecommunication networks or services in the Colombian territory; its duration should not be less than the term of the permit for the use of the radio spectrum and two (2) more years.			X	X	
The members of the consortium or the temporary union must submit the constitution document that contains the basic rules regulating the relations between them, their responsibility and the express manifestation of their intention to participate in the joint submission of the application for participation in the process, commit to the value offered in the auction, subscribe the required guarantees and comply with the conditions of the radio spectrum usage permit, in case of being awarded					X
The document of constitution of the consortium or temporary union must clearly state whether the participation is by way of consortium or temporary union. In case of temporary union, the document must indicate the duration, activities and participation percentages. If it is a consortium, its members must prove, in addition to its duration, their percentage of their participation. The terms of the temporary union or consortium agreements may not be modified without the prior, express and written consent from the MINISTERIO					X
Indicate the duration of the consortium or temporary union, which should be considered from the date of submission of the request for participation by the stakeholders until the expiration date of the radio spectrum use permit and two (2) more years					X

The lack of any of the established requirements will be grounds for rejection of the request and will prevent the interested party from participating in the auction process.

When any of the partners of the legal entity, of the promise of future partnership, the members of the consortium or of the temporary union, cedes its participation, they must do so to a person who meets the same conditions required regarding him/her/it, with the previous authorization of the Ministerio de Tecnologías de la Información y las Comunicaciones. Such participation may not be assigned to holders of permits for the use and exploitation of radio spectrum for land mobile services in bands currently used in Colombia for IMT or their real beneficiaries, or to those with whom they have a direct or indirect relationship through temporary unions, consortia, promises of future society, or as a manager or beneficiary of contracts of accounts in participation or similar businesses, or to companies having common decision-making links or relevant participation in them.

In the event that the applicant, the participants in the promise of future partnership, the members of the consortium or the temporary union, or the companies with which any of the above has common decision-making links or relevant participation, directly or indirectly, at the national or international level, being they spectrum assignees in Colombia for the provision of land mobile services in bands used for IMT, the spectrum assigned to each of them will be counted to each one to determine the amount of spectrum that can be accessed by the interested in this process considering the current caps¹.

Two or more legal persons that have the same majority partner, or that are subordinate or controlled by the same person may not participate, in the terms defined by the Commercial Code and the legislation in force in Colombia.

The request for participation must additionally contain the following information:

1. Certificate of existence and legal representation issued by the respective Chamber of Commerce, for legal persons domiciled in Colombia, or an equivalent document, issued by the competent entity, duly apostilled, in the case of legal persons domiciled outside Colombia, issued no more than thirty (30) days prior to the date of submission of the request. This document must prove that the legal person's term of duration is at least equal to that of the spectrum use permit and two (2) more years.
2. In the event that the certificate issued by the Chamber of Commerce or granted by the entity acting as such and being competent for it, in the cases of legal persons domiciled outside Colombia, refers to the bylaws of the company to establish the powers of the legal representative, the bidder must attach a copy of the relevant part of said by-laws, duly endorsed by the competent authorities and apostilled.
3. When the legal representative of the bidder, or of some of the companies that make up the promise of future partnership or the consortium or temporary

¹ Decree 2194 of 2017

union, has limitations on its powers to submit the request, it must be attached a copy of the document registering the decision of the corresponding corporate body, authorizing him/her to submit the request, commit to the value offered in the auction and sign the guarantees required in this process.

4. If acting through a proxy, the respective power of attorney, granted as provided in article 74 of the General Process Code and other concordant and complementary rules, must be attached. The granting of special power conferred abroad must comply with the provisions in Articles 58 and 251 of the General Process Code.
5. Manifestation of the legal representative or his/her proxy, which shall be understood to be carried out under the gravity of the oath, in the sense that neither the legal person concerned, nor its legal representatives, board members or board of directors, or partners, are involved in events of inability or incompatibility, conflict of interest or prohibition of constitutional or legal order, in accordance with the regulations governing the matter.
6. Indication of the address of the concerned legal entity, name of the representative in charge of this process, telephone number, and email address where notifications, communications, requirements or requests made by the MINISTERIO in the course of the selection procedure will be understood as delivered.
7. Full name and identification of a maximum of five (5) authorized persons, hereinafter "those authorized", to attend the *Presentation and explanation session of the auction mechanism* referred to in numeral 3 of ANNEX III of this resolution, and receive the information associated with said mechanism and classified as confidential by EL MINISTERIO. The document accrediting the faculty of those authorized to participate and represent the applicant is accredited must be attached. In the event of acting through power-of-attorney, it must be granted in accordance with the provisions of the General Process Code.
8. Sign and submit Annexes I and II to this resolution.
9. Certificate of fiscal background issued by the Republic General Comptroller Office.

For legal persons not domiciled in Colombia, the document proving their existence, duration and legal representation, granted in accordance with the legislation of the country of domicile and duly apostilled, must be issued not exceeding three (3) months prior to the presentation of the request covered by this article, and in it must be stated that its term of duration is at least equal to the term of the allocation of the radioelectric spectrum, object of this process, and two (2) more years.

The promises of future partnership and consortia or temporary unions must present an original of the partnership promise agreement or the constitution document of the consortium or temporary union, accompanied by the documents accrediting the respective authorizations from the meetings, assemblies, board of directors or

authorities of its members, if applicable, in accordance with the respective legal and statutory provisions. The partnership promise agreement or the document of incorporation of the consortium or temporary union must indicate that its duration will be at least equal to the term of assignment of the radio spectrum, object to this process, and two (2) more years.

In the same way, the promises of future partnership and the consortiums or temporary unions must present the document of constitution of proxy with express powers for submit the request, represent the promising partners throughout the objective selection process, commit to the value offered in the auction and subscribe the required guarantees, for which a copy of the document must be attached in which it is recorded the decision of the corresponding social body of each of the legal entities of the future company or of the consortium or temporary union authorizing it.

Public documents from abroad and documents in languages other than Spanish must be provided in accordance with the requirements set forth in article 251 of the General Process Code.

GUARANTEES

Bid Bond. The bidder must attach to its participation request a guarantee covering the seriousness of its offer in the terms and conditions stipulated for it.

Compliance guarantee for permission to use the assigned spectrum. The assignee undertakes to establish in favor of the Ministerio de Tecnologías de la Información y las Comunicaciones, NIT No. 899.999.053-1 and/or the Fondo Único de Tecnologías de la Información y las Comunicaciones, NIT No. 800.131.648-6, a guarantee that covers compliance with the obligations arising from the administrative act of spectrum allocation, in the terms and conditions stipulated in this resolution, its annexes and Resolutions No. 917 of 2015 and 1090 of 2016, and the regulations that modify, clarify or replace them.

The assignee may use any of the following guarantees as a mechanism for risk coverage:

1. Bank guarantee.
2. Insurance contract contained in a policy of compliance with legal provisions.
3. A combination of numerals 1 and 2 may be used for the Compliance guarantee for the permission to use the assigned spectrum.

The guarantees described above must meet the following conditions:

- a. This condition only applies to the Bid Bond: Requestors not having a domicile in Colombia may choose to submit guarantees issued by a bank domiciled abroad. In this case, if the issuer of the guarantee is a foreign bank, this bank must have a correspondent bank in Colombia. The correspondent bank has the obligation to confirm the bank guarantee, assuming responsibility in front of the beneficiary in the same terms as the issuer, as of the date on which the confirmation was granted.
- b. All requestors domiciled in Colombia will present guarantees processed with banks under the supervision of the Colombian Financial Superintendence and with domicile in Colombia, or insurance companies registered before it.
- c. The minimum rating for banks domiciled in Colombia must be A +, according to Fitch Ratings Colombia or its equivalent for another certification firm.
- d. The insurance companies must have adequate capital, sufficient to issue the required guarantee (s), and comply with the appropriate equity requirements, in accordance with Decree 2555 of 2010, establishing the appropriate equity regime for insurance entities and complementary regulations emanated from the Financial Superintendence.

PAYMENT FORM.

The monetary compensation to be paid for the right to use the assigned spectrum will be made in favor of the *Fondo Único de Tecnologías de la Información y las Comunicaciones*, as follows:

Down payment equivalent to 20% of the monetary compensation, within thirty (30) calendar days after the administrative act of spectrum allocation becomes final.

Payment of the remaining monetary compensation will be made as follows:

- a. For operators in lower bands:
 - o From year 2 to year 5 counted from the enforcement of the administrative act: 5% of the total of the monetary compensation
 - o From year 6 to year 11 counted from the enforcement of the administrative act: 10% of the total of the monetary compensation
- b. For newcomer operators or operators without lower bands:
 - o From year 6 to year 9 counted from the enforcement of the administrative act: 5% of the total of the monetary compensation
 - o From year 10 to year 15 counted from the enforcement of the administrative act: 10% of the total of the monetary compensation

The spectrum assignee shall make the payments referred to in this article by applying as an indexing parameter the interest rate established for the TES Class B Treasury Securities, at long term, from the date of the auction until the effective date for each payment.

OBLIGATIONS REGARDING EXTENSION OF COVERAGE The bidder becoming a spectrum assignee in the 700 MHz band must comply with the commissioning of the IMT land mobile service in the locations offered within the total block index by which the participant is declared winner of the block, in accordance with the provisions of the RADIOELECTRIC SPECTRUM ASSIGNEES SPECIFIC OBLIGATIONS and ANNEX III, taking into account the conditions offered, including the deployment deadlines being the basis for its assignment.

The assignee will bear the costs incurred for the extension of coverage covered this article deals with. If the early termination of the permit contemplated in this Resolution occurs, the assignee must comply with the obligations for coverage of this administrative act and its ANNEXES; it does not generate rights to claim or refund, nor the recognition of damages or indemnities against the State.

The exploitation of the radioelectric spectrum will be at the sole risk of the assignee of the radioelectric spectrum usage permit and both the financial offer and the cost of the obligations associated with the radioelectric spectrum usage permit will be assumed based on its own calculation. Consequently, there will be no refund or recognition of the values paid by the assignee for the use of the spectrum, nor will there be any claim by the assignee in this regard, arising from the occurrence of events of any nature.

EXTRACONTRACTUAL TORT INSURANCE. The assignee is obliged to establish in favor of the MINISTERIO, NIT No. 899.999.053-1 and the Fondo Único de Tecnologías de la Información y las Comunicaciones, NIT No. 800.131.648-6, a extracontractual civil liability insurance, in the terms and conditions stipulated in this Resolution, its annexes and Resolutions No. 917 of 2015 and 1090 of 2016, and the regulations modifying, clarifying or replacing them, in an amount not less than twenty billion Colombian pesos (\$ 20,000,000,000). This policy must remain in force during the term of the radio spectrum usage permit.

VALIDITY OF THE PERMIT FOR USING THE ASSIGNED SPECTRUM. The validity of the permit for using the radio spectrum for the 700 MHz, 1900 MHz, and 2500 MHz frequency bands shall be twenty (20) years, counted from the moment of the execution of the particular administrative act of spectrum allocation. The effective exercise of the right of use is conditioned to the approval of the guarantees and to the down payment of the due economic compensation.

The permit for the use of the radio spectrum may be renewed at the express request from the assignee, in accordance with the provisions of Article 12 of Law 1341 of 2009, as modified by Article 9 of Law 1978 of 2019. The renewal will not be free of charge nor automatic and both the value to be paid and the conditions associated with the renewal will be defined by EL MINISTERIO in accordance with the provisions of the legal and regulatory norms ruling the matter.

Those stakeholders been awarded during the objective selection process to be assignees of the radio spectrum must initiate the process of registration and

incorporation into the TIC register referred to in Article 15 of Law 1341 of 2009, modified by Article 12 of Law 1978 of 2019, or update it, within fifteen (15) business days following the completion of the auction.

RADIOELECTRIC SPECTRUM ASSIGNEES GENERAL OBLIGATIONS. In addition to the obligations established by the current regulations, the assignees of the spectrum awarded under the procedure ruled in this resolution must comply with the following obligations:

- a. Fully comply with what is established in the object, scope, conditions and obligations described in this resolution, its annexes and the documents being an integral part thereof.
- b. Comply with current regulations and with the legal, statutory and regulatory provisions already issued and to be issued in the future by the competent entities.
- c. Assume, at its sole risk, the exploitation of the spectrum assigned as a result of the auction, in accordance with the provisions of this resolution, its annexes and the particular administrative acts of allocation of the spectrum, awarded through the objective selection process referred to in the present resolution.
- d. Submit in a clear and orderly manner, in the terms indicated by EL MINISTERIO and other competent entities, the information that is required to carry out the effective supervision and inspection of compliance of its obligations.
- e. Provide the services at its sole risk, continuously, efficiently, and in compliance with the minimum requirements on quality of service described in the regulations issued by the Communications Regulation Commission.
- f. Timely comply with the payment of the economic compensation and the execution of the coverage extension obligations originating from the spectrum usage permit.
- g. Timely comply with the payment of the periodic compensation the Telecommunications Networks and Services Provider (PRST, in its Spanish acronym) is obliged to, in accordance with the applicable regime, and comply with the obligations related to the technological update of the network to the appropriate extent.
- h. Ensure the operation and interconnection of its network with other telecommunications networks.
- i. Allow the interconnection of its networks and the access and use of its essential facilities under non-discriminatory conditions, including the essential installation of national automatic rating, to any other PRST requesting it, in accordance with the terms or conditions established for that purpose.
- j. Obtain and keep in force all the licenses, authorizations and permits of national, departmental, district or municipal nature, as necessary for the installation of its infrastructure, as well as those that must be obtained for the realization of works.

- k. Repair all damages to other PRSTs' telecommunications network due to its acts or omissions, and indemnify the owners of such networks for the damages caused to them.
- l. Do not cause interference, and if it occurs, promptly comply with the requirements issued by the ANE (Agencia Nacional de Infraestructura).
- m. Carry out the retuning of their assigned frequencies, within the same band, at the moment EL MINISTERIO requests it, due to the reorganization of the radio spectrum, due to a new assignment process or in order to guarantee spectrum assignments in continuous blocks.
- n. In case methodologies are defined or measurement parameters are established to validate the efficient use of the spectrum, the assignee must strictly comply with said measures.
- o. Assume all risks arising from possible interferences and, in general, from any alteration that modifies the defined or expected use of the band.

RADIOELECTRIC SPECTRUM ASSIGNEES SPECIFIC OBLIGATIONS. The spectrum assignees must perform the following specific obligations, whose compliance will be verified by the MINISTERIO, through the Directorate of Surveillance and Control:

to. Technological update of mobile networks: The PRSTs becoming spectrum assignees in the 700 MHz band as a result of this auction must guarantee the technological modernization of their networks, within a period of maximum five (5) years, counted from the date of execution of the administrative act of spectrum allocation.

The technological modernization of its networks is understood as the provision of technologies offering theoretical peak speeds with at least the transfer rates described in the table below, in the total of base stations operating in municipalities with less than 100,000 inhabitants and which do not feature this update at the moment of the allocation of the spectrum object of the present resolution.

Table 1. Theoretical peak speeds

Assigned spectrum	Downlink Peak (Mbps)	Uplink Peak (Mbps)
One 2 x 5Mhz block	36.7	18.3
Two 2 x 5 Mhz blocks	75	36.7
Three 2 x 5 MHz blocks	110	55.1
Four 2 x 2,5 MHz blocks	150	75

The minimum annual goals to be met, counting the term in years, starting in year 1 from the date of the execution of the administrative act of spectrum allocation in the 700 MHz band until the fourth year, will be 30%, 20 %, 20%, and 30% respectively.

For the fulfilment of this obligation, the assignee must send to the MINISTERIO, within sixty (60) calendar days following the execution of the administrative act of spectrum allocation resulting from this process, the listing of the base stations by

type of technology, its georeferencing expressed according to the WGS 84 system, the detailed plan, and the work schedule indicating the update dates for each of the base stations object of this obligation, as well as a description of the way how the update will be carried out.

b. Mobile coverage in locations:

PRSTs that become spectrum assignees in the 700 MHz band as a result of this auction must deploy technologies that support theoretical peak speeds featuring at least the transfer rates described in Table 1.

They must carry the aforementioned deployment out in the locations each participant chooses using the auction mechanism, in accordance with the provisions of ANNEX III to this Resolution, taking into account the conditions offered, including the deployment deadlines being the basis for their assignment, counted from the date of execution of the administrative act of spectrum allocation.

For the fulfilment of this obligation, the assignee must submit to the MINISTERIO within sixty (60) calendar days following the execution of the administrative act of spectrum allocation resulting from this process, a detailed plan and the work schedule, indicating the dates of commissioning for each of the locations according to the conditions offered as the basis for its assignment as well as a description of how it will be carried out.

Mobile service coverage in localities is understood when the Reference Signal Received Power (RSRP) level at a point within a 2 km radius from the location is more than -81dBm.