List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission,

William F. Caton,

Acting Secretary.

Amendatory Text

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309 and 332.

2. A new Subpart U consisting of §§ 90.801 through 90.814 is proposed to be added to Part 90 to read as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Subpart U—Competitive Bidding Procedures for 900 MHz Specialized Mobile Radio

Sec.

90.801 900 MHz SMR subject to competitive bidding.

90.802 Competitive bidding for 900 MHz SMR licensing..

90.803 Competitive bidding mechanisms. 90.804 Aggregation of 900 MHz SMR licenses

90.805 Withdrawal, default and disqualification payments.

90.806 Bidding application (FCC Form 175 and 175–S Short-form).

90.807 Submission of upfront payments and down payments.

90.808 Long-form applications.

90.809 License grant, denial, default, and disqualification.

90.810 Bidding credits for small businesses. 90.811 Reduced down payment for licenses won by small businesses.

90.812 Installment payments for licenses won by small businesses.

90.813 Procedures for partitioned licenses. 90.814 Definitions.

§ 90.801 900 MHz SMR subject to competitive bidding.

Mutually exclusive initial applications to provide 900 MHz SMR service are subject to competitive bidding procedures. The general competitive bidding procedures found in 47 CFR Part 1, Subpart Q will apply unless otherwise provided in this part.

§ 90.802 Competitive bidding design for 900 MHz SMR licensing.

The Commission will employ a simultaneous multiple round auction design when choosing from among mutually exclusive initial applications to provide 900 MHz SMR service, unless otherwise specified by the Wireless Telecommunications Bureau before the auction.

§ 90.803 Competitive bidding mechanisms.

(a) Sequencing. The Commission will establish and may vary the sequence in which 900 MHz SMR licenses will be auctioned.

(b) *Grouping*. All 900 MHz SMR licenses for each of the MTAs will be auctioned simultaneously, unless the Wireless Telecommunications Bureau announces, by Public Notice prior to the auction, an alternative auction scheme.

(c) *Minimum Bid Increments*. The Commission will, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms.

(d) Stopping Rules. The Commission will establish stopping rules before or during multiple round auctions in order to terminate an auction within a reasonable time.

(e) Activity Rules. The Commission will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted a certain number of waivers of such rule during the auction.

§ 90.804 Aggregation of 900 MHz SMR licenses.

The Commission will license each 10-channel block in the 900 MHz SMR spectrum separately. Applicants may aggregate across spectrum blocks within the limitation specified in § 20.6(b) of this Chapter.

§ 90.805 Withdrawal, default and disqualification payments.

(a) During the course of an auction conducted pursuant to § 90.802, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, who default on payments due after an auction closes, or who are disqualified.

(b) Bid withdrawal prior to close of auction. A bidder who withdraws a high bid during the course of an auction will be subject to a payment equal to the difference between the amount bid and the amount of the winning bid the next time the license if offered by the Commission. No withdrawal payment would be assessed if the subsequent winning bid exceeds the withdrawn bid. This payment amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(c) Default or disqualification after close of auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder

will be subject to the payment in paragraph (a) of this section plus an additional penalty equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission.

§ 90.806 Bidding application (FCC Form 175 and 175–S Short-form).

All applicants to participate in competitive bidding for 900 MHz SMR licenses must submit applications on FCC Forms 175 and 175-S pursuant to the provisions of § 1.2105 of this Chapter. The Wireless Telecommunications Bureau will issue a Public Notice announcing the availability of 900 MHz SMR licenses and, in the event that mutually exclusive applications are filed, the date of the auction for those licenses. This Public Notice also will specify the date on or before which applicants intending to participate in a 900 MHz SMR auction must file their application in order to be eligible for that auction, and it will contain information necessary for completion of the application as well as other important information such as the materials which must accompany the Forms, any filing fee that must accompany the application or any upfront payment that will need to be submitted, and the location where the application must be filed. In addition to identifying its status as a small business or rural telephone company, each applicant must indicate whether it is a minority-owned entity, as defined in § 90.814(g) and/or a women-owned entity.

§ 90.807 Submission of upfront payments and down payments.

(a) Bidders in the 900 MHz SMR auction will be required to submit an upfront payment of \$0.02 per pop per MHz, in accordance with § 1.2106 of this Chapter.

(b) Winning bidders in a 900 MHz SMR auction must submit a down payment to the Commission in an amount sufficient to bring their total deposits up to 20 percent of their winnings bids, and in accordance with § 1.2107(b) of this chapter, except for small businesses that are winning bidders, which are governed by § 90.811.