

(e) Each MDS response station shall employ a directive transmitting antenna oriented towards the transmitter site of the associated MDS station or towards the response station hub with which the MDS response station communicates. The beamwidth between half power points shall not exceed 15° and radiation in any minor lobe of the antenna radiation pattern shall be at least 20 dB below the power in the main lobe of radiation.

(f) A response station may be operated unattended. The overall performance of the response station transmitter shall be checked by the licensee of the station or hub receiving the response signal, or by the licensee's employees or agents, as often as necessary to ensure that the transmitter is functioning in accordance with the requirements of the Commission's rules. The licensee of the station or hub receiving the response signal is responsible for the proper operation of the response station and must have reasonable and timely access to the response station transmitter. The response station shall be installed and maintained by the licensee of the associated station or hub, or the licensee's employees or agents, and protected in such manner as to prevent tampering or operation by unauthorized persons. No response station which has not been installed by an authorized person may lawfully communicate with any station or hub.

[63 FR 65112, Nov. 25, 1998; 64 FR 4055, Jan. 27, 1999, as amended at 64 FR 63737, Nov. 22, 1999]

EFFECTIVE DATE NOTE: At 63 FR 65112, Nov. 25, 1998, § 21.949 was added. Paragraphs (b) and (f) contain information and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 21.950 MDS subject to competitive bidding.**

Mutually exclusive initial applications for MDS licenses are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this part.

[67 FR 45366, July 9, 2002]

**§§ 21.951–21.953 [Reserved]**

**§ 21.954 Submission of upfront payments.**

Applicants who are small businesses eligible for reduced upfront payments will be required to submit an upfront payment amount in accordance with § 21.960(d).

[68 FR 42998, July 21, 2003]

**§ 21.955 [Reserved]**

**§ 21.956 Filing of long-form applications or statements of intention.**

(a)(1) Within 30 business days of being notified of its status as a winning bidder, each winning bidder for a BTA service area will be required to submit either:

(i) An initial long-form application for an MDS station license, along with any required exhibits; or

(ii) A statement of intention with regard to the BTA service area, along with any required exhibits, showing the encumbered nature of the BTA, identifying all previously authorized or proposed MDS and ITFS facilities, and describing in detail the winning bidder's plan for obtaining the previously authorized and/or proposed MDS stations within the BTA.

(2) A winning bidder that fails to submit either the initial long-form application or statement of intention as required under this section, and fails to establish good cause for any late-filed application or statement, shall be deemed to have defaulted and will be subject to the payments set forth in § 21.959(a).

(b) Each initial long-form application for an MDS station license within an auction winner's BTA service area, and each statement of intention with regard to an auction winner's BTA service area, must also include the following:

(1) FCC Form 430;

(2) An exhibit detailing the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement the winning bidder had entered into relating to the competitive bidding process prior to the time bidding was completed (see 47 CFR 1.2107(d) of this chapter);

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(3) An exhibit complying with §§ 1.2110(j) of this chapter and 21.960(f), if the winning bidder submitting the long-form application or statement of intention claims status as a designated entity.

(c) Subsequent long-form applications for additional MDS station licenses within the BTA service areas of winning bidders may be submitted at any time during the five year build-out period and need not contain the exhibits specified in paragraphs (b)(2) through (3) of this section.

[60 FR 36559, July 17, 1995, as amended at 61 FR 18098, Apr. 24, 1996; 67 FR 45366, July 9, 2002; 68 FR 42998, July 21, 2003]

### § 21.957 Comments on statements of intention.

In addition to the provisions of § 21.30, parties wishing to comment or oppose the issuance of a BTA authorization in connection with the filing of a statement of intention by a winning bidder must do so prior to the Commission's issuance of the BTA authorization.

[67 FR 45366, July 9, 2002]

### § 21.958 Issuance of BTA licenses.

A winning bidder who submitted a long-form application for an MDS station license within its BTA service area pursuant to § 21.956(a) will receive its BTA authorization concurrent with the grant of its MDS conditional station license within its BTA service area. A winning bidder who submitted a statement of intention with regard to its BTA service area pursuant to § 21.956(a) will receive its BTA authorization following the Commission's review of its statement of intention. The Commission will issue a BTA authorization to a winning bidder within ten (10) business days following notification of receipt of full payment of the amount of the winning bid.

[67 FR 45366, July 9, 2002]

### § 21.959 [Reserved]

### § 21.960 Designated entity provisions for MDS.

(a) *Eligibility for small business provisions.* A small business is an entity that together with its affiliates has av-

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erage annual gross revenues that are not more than \$40 million for the preceding three calendar years.

(b) *Designated entities.* As specified in this section, designated entities that are winning bidders for BTA service areas are eligible for special incentives in the auction process. See 47 CFR 1.2110.

(c) *Installment payments.* Small businesses and small business consortia may elect to pay the full amount of their winning bids for BTA service areas in installments over a ten (10) year period running from the date that their BTA authorizations are issued.

(1) Each eligible winning bidder paying for its BTA authorization(s) on an installment basis must deposit by wire transfer or cashier's check in the manner specified in § 21.955 sufficient additional funds as are necessary to bring its total deposits to ten (10) percent of its winning bid(s) within five (5) business days after the Commission has declared it the winning bidder and closed the bidding. Failure to remit the required payment will make the bidder liable for the payments set forth in § 21.959(a)(2).

(2) Within five (5) business days following release of the public notice stating that the BTA authorization of a winning bidder eligible for installment payments is ready to be issued, the winning bidder shall pay another ten (10) percent of its winning bid, thereby commencing the eligible bidder's installment payment plan. The Commission will issue the BTA authorization to the eligible winning bidder within ten (10) business days following notification of receipt of this additional ten (10) percent payment. Failure to remit the required payment will make the bidder liable for the payments set forth in § 21.959(a)(2).

(3) Upon issuance of a BTA authorization to a winning bidder eligible for installment payments, the Commission will notify such eligible BTA authorization holder of the terms of its installment payment plan. For MDS, such installment payment plans will:

(i) Impose interest based on the rate of ten (10) year U.S. Treasury obligations at the time of issuance of the BTA authorization, plus two and one half (2.5) percent;