

Federal Communications Commission

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§§ 27.322–27.325 [Reserved]

Subpart F—Competitive Bidding Procedures for the 746–764 MHz and 776–794 MHz Bands

SOURCE: 65 FR 3149, Jan. 20, 2000, unless otherwise noted.

§ 27.501 746–764 MHz and 776–794 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 746–764 MHz and 776–794 MHz bands 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 subpart.

[68 FR 43000, July 21, 2003]

§ 27.502 Designated entities.

Eligibility for small business provisions.

(a) A *small business* is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$40 million for the preceding three years.

(b) A *very small business* is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$15 million for the preceding three years.

[67 FR 45374, July 9, 2002, as amended at 68 FR 43000, July 21, 2003]

Subpart G—Guard Band Managers

SOURCE: 65 FR 17605, Apr. 4, 2000, unless otherwise noted.

§ 27.601 Guard Band Manager authority and coordination requirements.

(a) Subject to the provisions of § 27.2(b) and paragraphs (c) and (d) of this section, a Guard Band Manager may allow a spectrum user, pursuant to a written agreement, to construct and operate stations at any available site within the licensed area and on any channel for which the Guard Band Manager is licensed, provided such stations comply with Commission Rules and coordination requirements.

(b) Subject to the provisions of § 27.2(b) and paragraphs (c) and (d) of this section, a Guard Band Manager may allow a spectrum user, pursuant to a written agreement, to delete, move or change the operating parameters of any of the user's stations that are covered under the Guard Band Manager's license without prior Commission approval, provided such stations comply with Commission Rules and coordination requirements.

(c)(1) A Guard Band Manager must file a separate station application and obtain all appropriate Commission approvals or authorizations prior to construction of stations that—

(i) Require submission of an Environmental Assessment under § 1.1307 of this chapter;

(ii) Require international coordination; or

(iii) Would affect areas described in § 1.924 of this chapter.

(2) Prior to construction of a station, a Guard Band Manager must register with the Commission any station antenna structure for which notification to the Federal Aviation Administration is required by part 17 of this chapter.

(3) It is the Guard Band Manager's responsibility to determine whether a referral to the Commission is needed for any individual station constructed in the Guard Band Manager's license area.

(d)(1) A Guard Band Manager must notify Commission-recognized public safety frequency coordinators for the 700 MHz public safety band and adjacent-area Guard Band Managers within one business day after the Guard Band Manager has:

(i) Coordinated a new station or modification of an existing station; or

(ii) Filed an application for an individual station license with the Commission.

(2) The notification required in paragraph (d)(1) of this section must include, at a minimum—

(i) The frequency or frequencies coordinated;

(ii) Antenna location and height;

(iii) Type of emission;

(iv) Effective radiated power;

(v) A description of the service area, date of coordination, and user name or,

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in the alternative, a description of the type of operation.

(3) In the event a Guard Band Manager partitions its service area or disaggregates its spectrum, it is required to submit the notification required in paragraph (d)(1) of this section to other Guard Band Managers in the same geographic area.

(4) Entities coordinated by a Guard Band Manager must wait at least 10 business days after the notification required in paragraph (d)(1) of this section before operating under the Guard Band Manager's license;

(5) If, in the event of harmful interference, the Guard Band Manager is unable to resolve the problem by mutually satisfactory arrangements, the Commission may impose restrictions on the operations of any of the parties involved.

(e) Where a deletion, move or change authorized under paragraph (b) of this section constitutes a discontinuance, reduction, or impairment of service under §27.66 or where discontinuance, reduction or impairment of service results from an involuntary act subject to §27.66(a), the Guard Band Manager must comply with the notification and authorization requirements set forth in that section.

[65 FR 17605, Apr. 4, 2000, as amended at 69 FR 17958, Apr. 6, 2004]

§27.602 Guard Band Manager agreements.

Guard Band Managers are required to enter into written agreements regarding the use of their licensed spectrum by others, subject to the following conditions:

(a) The duration of spectrum user agreements may not extend beyond the term of the Guard Band Manager's FCC license.

(b) The spectrum user agreement must specify in detail the operating parameters of the spectrum user's system, including power, maximum antenna heights, frequencies of operation, base station location(s), area(s) of operation, and other parameters specified in Commission rules for the use of spectrum identified in §27.5(b)(1) and (b)(2).

(c) The spectrum user agreement must require the spectrum user to use

Commission-approved equipment where appropriate and to complete post-construction proofs of system performance prior to system activation.

(d) The spectrum user must agree to operate its system in compliance with all technical specifications for the system contained in the agreement and agree to cooperate fully with any investigation or inquiry conducted by either the Commission or the Guard Band Manager.

(e) The spectrum user must agree to comply with all applicable Commission rules, and the spectrum user must accept Commission oversight and enforcement.

(f) The spectrum user agreement must stipulate that if the Guard Band Manager determines that there is an ongoing violation of the Commission's rules or that the spectrum user's system is causing harmful interference, the Guard Band Manager shall have the right to suspend or terminate operation of the spectrum user's system. The spectrum user agreement must stipulate that if the spectrum user refuses to comply with a suspension or termination order, the Guard Band Manager will be free to use all legal means necessary to enforce the order.

(g) The spectrum user agreement may not impose unduly restrictive requirements on use of the licensed frequencies, including any requirement that is not reasonably related to the efficient management of the spectrum licensed to the Guard Band Manager.

(h) Guard Band Managers shall maintain their written agreements with spectrum users at their principal place of business, and retain such records for at least two years after the date such agreements expire. Such records shall be kept current and be made available upon request for inspection by the Commission or its representatives.

§27.603 Access to the Guard Band Manager's spectrum.

(a) A Guard Band Manager may not engage in unjust or unreasonable discrimination among spectrum users and may not unreasonably deny prospective spectrum users access to the Guard Band Manager's licensed spectrum.