

Federal Communications Commission

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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.

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

(c) A Guard Band Manager may lease a reasonable amount of its spectrum to an affiliate for the affiliate's own internal use or for the affiliate's provision of commercial or private radio services. However, a Guard Band Manager must lease the predominant amount of its spectrum to non-affiliates.

§ 27.604 Limitation on licenses won at auction.

(a) For the first auction of licenses in Blocks A and B, as defined in § 27.5, no applicant may be deemed the winning bidder of both a Block A and a Block B license in a single geographic service area.

(b) For purposes of paragraph (a) of this section, licenses will be deemed to be won by the same bidder if an entity that wins one license at the auction is an affiliate of any other entity that wins a license at the auction.

§ 27.605 Geographic partitioning and spectrum disaggregation.

An entity that acquires a portion of a Guard Band Manager's geographic area or spectrum subject to a geographic partitioning or spectrum disaggregation agreement under § 27.15 must function as a Guard Band Manager and is subject to the obligations and restrictions on Guard Band Manager licenses set forth in this subpart.

§ 27.606 Complaints against Guard Band Managers.

Guard Band Managers are expected to resolve disputes with their customers or disputes between multiple customers of the Guard Band Manager in the same manner that the parties would resolve other commercial disputes arising out of the spectrum user agreement. The Commission will also consider complaints filed against a Guard Band Manager for violating the Communications Act or the Commission's regulations or policies. When there is a dispute between a Guard

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Band Manager, or its spectrum user, and a non-contracting party, and the Guard Band Manager is unable or unwilling to resolve such dispute in a timely fashion, the non-contracting party may file a complaint with the Commission pursuant to §1.41 of this chapter.

§ 27.607 Performance requirements and annual reporting requirement.

(a) Guard Band Managers are subject to the performance requirements specified in §27.14(a).

(b) Guard Band Managers are required to file an annual report providing the Commission with information about the manner in which their spectrum is being utilized. Such reports shall be filed with the Commission on a calendar year basis, no later than the March 1 following the close of each calendar year, unless another filing date is specified by Public Notice.

(c) Guard Band Managers must, at a minimum, include the following information in their annual reports:

(1) The total number of spectrum users and the number of those users that are affiliates of the Guard Band Manager;

(2) The amount of the Guard Band Manager's spectrum being used by the Guard Band Manager's affiliates in any part of the licensed service area;

(3) The amount of Guard Band Manager's spectrum being used pursuant to agreements with unaffiliated third parties;

(4) The nature of the spectrum use of the Guard Band Manager's customers; and

(5) The length of the term of each spectrum user agreement.

(d) The specific information that Guard Band Managers will provide and the procedures that they will follow in submitting their annual reports will be announced in a Public Notice issued by the Wireless Telecommunications Bureau.

Subpart H—Competitive Bidding Procedures for the 698–746 MHz Band

SOURCE: 67 FR 5512, Feb. 6, 2002, unless otherwise noted.

47 CFR Ch. I (10–1–05 Edition)

§ 27.701 698–746 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 698–746 MHz band 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.

[67 FR 45374, July 9, 2002]

§ 27.702 Designated entities.

(a) *Eligibility for small business provisions.* (1) An entrepreneur is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years. This definition applies only with respect to licenses in Block C (710–716 MHz and 740–746 MHz) as specified in §27.5(c)(1).

(2) 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.

(3) 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) *Bidding credits.* A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in §1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in §1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in §1.2110(f)(2)(iii) of this chapter.

[67 FR 5512, Feb. 6, 2002, as amended at 68 FR 43000, July 21, 2003]

Subpart I—1.4 GHz Band

SOURCE: 67 FR 41855, June 20, 2002, unless otherwise noted.

§ 27.801 Scope.

This subpart sets out the regulations governing service in the paired 1392–