

## § 90.912

will be responsible for meeting the incumbent relocation requirements set forth at § 90.699.

[62 FR 41221, July 31, 1997, as amended at 63 FR 68973, Dec. 14, 1998; 67 FR 45377, July 9, 2002]

### § 90.912 Definitions.

(a) *Scope.* The definitions in this section apply to §§ 90.910 and 90.911, unless otherwise specified in those sections.

(b) *Small and very small businesses.* (1) A *small business* is an entity that together with its affiliates and controlling interests, has average gross revenues that do not exceed \$15 million for the three preceding years; or

(2) A *very small business* is an entity that together with its affiliates and controlling interests, has average gross revenues that do not exceed \$3 million for the three preceding years.

[62 FR 41222, July 31, 1997, as amended at 67 FR 45377, July 9, 2002; 68 FR 43001, July 21, 2003]

### § 90.913 Record maintenance and definitions.

(a) *Records maintenance.* All winning bidders qualifying as small or very small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any document necessary to establish eligibility as a small or very small business, as defined in § 90.912, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors in interest) shall maintain such files for the term of the license.

(b) *Definitions.* The terms *small* and *very small business* used in this section are defined in § 90.912.

[68 FR 43001, July 21, 2003]

## Subpart W—Competitive Bidding Procedures for the 220 MHz Service

SOURCE: 62 FR 15999, Apr. 3, 1997, unless otherwise noted.

### § 90.1001 220 MHz service subject to competitive bidding.

Mutually exclusive initial applications for 200 MHz geographic area licenses are subject to competitive bid-

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ding. 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 45377, July 9, 2002]

### §§ 90.1003–90.1015 [Reserved]

### § 90.1017 Bidding credits for small businesses and very small businesses.

A winning bidder that qualifies as a small business, as defined in § 90.1021(b)(1), or a consortium of small businesses may use a bidding credit of 25 percent to lower the cost of its winning bid. A winning bidder that qualifies as a very small business, as defined in § 90.1021(b)(2), or a consortium of very small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid.

[68 FR 43001, July 21, 2003]

### § 90.1019 Eligibility for partitioned licenses.

(a) *Eligibility.* Parties seeking approval for partitioning and disaggregation shall request authorization for partial assignment of a license pursuant to § 1.948 of this chapter. The Commission will consider applications that propose combinations of partitioning and disaggregation.

(1) Phase I non-nationwide licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum after constructing their systems and placing their in operation or commencing service in accordance with the provisions in § 90.725(f) of this part.

(2) Phase I nationwide licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum after constructing at least 40 percent of the geographic areas designated in their applications in accordance with the provisions in § 90.725(a) of this part.

(3) Phase II licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum at any time following the grant of their licenses.

(4) Phase I and Phase II licensees authorized to operate on Channels 161 through 170 or Channels 181 through 185

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are not eligible to partition their geographic service area or disaggregate their licensed spectrum.

(b) *Partitioning*. In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to § 1.948 and list the partitioned service area on a schedule to the application. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude and must be based upon the 1983 North American Datum (NAD83). In the case where an FCC-recognized service area or county lines are utilized, applicants need only list the specific area(s) through use of FCC designations or county names that constitute the partitioned area.

(c) *License term*. The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's license term.

(d) *Construction requirements*. (1) Requirements for partitioning. Parties seeking authority to partition must meet one of the following construction requirements:

(i) The partitionee may certify that it will satisfy the applicable construction requirements set forth in §§ 90.767 or 90.769 of this part, as applicable, for the partitioned license area; or

(ii) The original licensee may certify that it has or will meet its five-year construction requirement and will meet the ten-year construction requirement, as set forth in §§ 90.767 or 90.769 of this part, as applicable, for the entire license area. In that case, the partitionee must only satisfy the requirements for "substantial service," as set forth in § 90.743(a)(1) of this part, for the partitioned license area by the end of the original ten-year license term of the licensee.

(iii) Failure by any partitionee to meet its respective construction requirements will result in the automatic cancellation of the partitioned license without further Commission action (see § 1.946).

(2) *Requirements for disaggregation*. Parties seeking authority to disaggregate spectrum must certify in FCC Form 601 which of the parties will be responsible for meeting the five-year and ten-year construction require-

ments for the particular market as set forth in § 90.767 or § 90.769, as applicable. Parties may agree to share responsibility for meeting the construction requirements. If one party accepts responsibility for meeting the construction requirements and later fails to do so, then its license will cancel automatically without further Commission action. If both parties accept responsibility for meeting the construction requirements and later fail to do so, then both their licenses will cancel automatically without further Commission action.

[63 FR 49295, Sept. 15, 1998, as amended at 63 FR 68973, Dec. 14, 1998; 65 FR 39560, June 27, 2000]

### § 90.1021 Definitions concerning competitive bidding process.

(a) *Scope*. The definitions in this section apply to §§ 90.1001 through 90.1025, unless otherwise specified in those sections.

(b) *Small and very small business*. (1) A *small business* is an entity that, together with its affiliates and controlling interests, has average gross revenues that are not more than \$15 million for the preceding three years.

(2) A *very small business* is an entity that, together with its affiliates and controlling interests, has average gross revenues that are not more than \$3 million for the preceding three years.

[62 FR 15999, Apr. 3, 1997, as amended at 67 FR 46376, July 9, 2002; 68 FR 43001, July 21, 2003]

### § 90.1023 Records maintenance and definitions.

(a) *Records maintenance*. All winning bidders qualifying as small or very small businesses shall maintain at their principal place of business an updated file of ownership, revenue, and asset information, including any documents necessary to establish eligibility as a small business or very small business, as defined in § 90.1021, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors-in-interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or