

under this paragraph and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and will be subject to the payments set forth in § 1.2104.

(d) As an exhibit to its long-form application, the applicant must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement it had entered into relating to the competitive bidding process prior to the time bidding was completed. Such agreements must have been entered into prior to the filing of short-form applications pursuant to § 1.2105.

(e) A winning bidder that seeks a bidding credit to serve a qualifying tribal land, as defined in § 1.2110(f)(3)(i), within a particular market must indicate on the long-form application (FCC Form 601) that it intends to serve a qualifying tribal land within that market.

(f) An applicant must also submit FCC Form 602 (*see* § 1.919 of this chapter) with its long form application (FCC Form 601).

(g)(1)(i) A consortium participating in competitive bidding pursuant to § 1.2110(b)(3)(i) that is a winning bidder may not apply as a consortium for licenses covered by the winning bids. Individual members of the consortium or new legal entities comprising individual consortium members may apply for the licenses covered by the winning bids of the consortium. An individual member of the consortium or a new legal entity comprising two or more individual consortium members applying for a license pursuant to this provision shall be the applicant for purposes of all related requirements and filings, such as filing FCC Form 602. However, the members filing separate long-form applications shall all use the consortium's FCC Registration Number ("FRN") on their long-form applications. An application by an individual consortium member or a new legal entity comprising two or more individual consortium members for a license covered by the winning bids of the consortium shall not constitute a major modification of the application or a change in control of the applicant for

purposes of Commission rules governing the application.

(ii) Within ten business days after release of the public notice announcing grant of a long-form application, that licensee must update its filings in the Commission's Universal Licensing System ("ULS") to substitute its individual FRN for that of the consortium.

(2) The continuing eligibility for size-based benefits, such as size-based bidding credits or set-aside licenses, of a newly formed legal entity comprising two or more individual consortium members will be based on the size of such newly formed entity as of the filing of its long-form application.

(3) Members of a consortium intending to partition or disaggregate license(s) among individual members or new legal entities comprising two or more individual consortium members must select one member or one new legal entity comprising two or more individual consortium members to apply for the license(s). The applicant must include in its applications, as part of the explanation of terms and conditions provided pursuant to § 1.2107(d), the agreement of the applicable parties to partition or disaggregate the relevant license(s). Upon grant of the long-form application for that license, the licensee must then apply to partition or disaggregate the license pursuant to those terms and conditions.

[59 FR 44293, Aug. 26, 1994, as amended at 61 FR 49075, Sept. 18, 1996; 62 FR 13543, Mar. 21, 1997; 63 FR 2342, Jan. 15, 1998; 63 FR 12659, Mar. 16, 1998; 63 FR 68942, Dec. 14, 1998; 65 FR 47354, Aug. 2, 2000; 67 FR 45365, July 9, 2002; 71 FR 6227, Feb. 7, 2006]

#### **§ 1.2108 Procedures for filing petitions to deny against long-form applications.**

(a) Where petitions to deny are otherwise provided for under the Act or the commission's Rules, and unless other service-specific procedures for the filing of such petitions are provided for elsewhere in the Commission's Rules, the procedures in this section shall apply to the filing of petitions to deny the long-form applications of winning bidders.

(b) Within a period specified by Public Notice and after the Commission by Public Notice announces that long-

form applications have been accepted for filing, petitions to deny such applications may be filed. The period for filing petitions to deny shall be no more than ten (10) days. The appropriate licensing Bureau, within its discretion, may, in exigent circumstances, reduce this period of time to no less than five (5) days. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. The time for filing such oppositions shall be at least five (5) days from the filing date for petitions to deny, and the time for filing replies shall be at least five (5) days from the filing date for oppositions. The Commission may grant a license based on any long-form application that has been accepted for filing. The Commission shall in no case grant licenses earlier than seven (7) days following issuance of a public notice announcing long-form applications have been accepted for filing.

(d) If the Commission determines that:

(1) An applicant is qualified and there is no substantial and material issue of fact concerning that determination, it will grant the application.

(2) An applicant is not qualified and that there is no substantial issue of fact concerning that determination, the Commission need not hold an evidentiary hearing and will deny the application.

(3) Substantial and material issues of fact require a hearing, it will conduct a hearing. The Commission may permit all or part of the evidence to be submitted in written form and may permit employees other than administrative law judges to preside at the taking of written evidence. Such hearing will be conducted on an expedited basis.

[59 FR 44293, Aug. 26, 1994, as amended at 63 FR 2343, Jan. 15, 1998; 65 FR 52345, Aug. 29, 2000]

#### **§ 1.2109 License grant, denial, default, and disqualification.**

(a) Unless otherwise specified by public notice, auction winners are required to pay the balance of their winning bids in a lump sum within ten (10) business days following the release of a public notice establishing the payment deadline. If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due. When a winning bidder fails to pay the balance of its winning bid by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. Licenses will be awarded upon the full and timely payment of winning bids and any applicable late fees.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission, at its discretion, may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. If the license(s) is offered to the other highest bidders (in descending order), the down payment obligations set forth in § 1.2107(b) will apply. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted, its application will be dismissed, and it will be