

**§ 73.5000 Services subject to competitive bidding.**

(a) Mutually exclusive applications for new facilities and for major changes to existing facilities in the following broadcast services are subject to competitive bidding: AM; FM; FM translator; analog television; low-power television; television translator; and Class A television. Mutually exclusive applications for minor modifications of Class A television and television broadcast are also 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 part 73 or part 74 of this chapter.

(b) Mutually exclusive applications for broadcast channels in the reserved portion of the FM band (Channels 200–220) and for television broadcast channels reserved for noncommercial educational use are not subject to competitive bidding procedures. Applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), on non-reserved channels also are not subject to competitive bidding procedures.

[63 FR 48629, Sept. 11, 1998, as amended at 67 FR 45374, July 9, 2002; 68 FR 26228, May 15, 2003; 69 FR 72043, Dec. 10, 2004]

**§ 73.5001 [Reserved]**

**§ 73.5002 Application and certification procedures; return of mutually exclusive applications not subject to competitive bidding procedures; prohibition of collusion.**

(a) Prior to any broadcast service auction, the Commission will issue a public notice announcing the upcoming auction and specifying the period during which all applicants seeking to participate in an auction, and all applicants for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), on non-reserved channels, must file their applications for new broadcast facilities or for major changes to existing facilities. Broadcast service applications for new facilities or for major modifications will be accepted only during these specified periods. This initial and other public notices will contain information about the completion and submission of ap-

plications to participate in the broadcast auction, and applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), on non-reserved channels, as well as any materials that must accompany the applications, and any filing fee that must accompany the applications or any upfront payments that will need to be submitted. Such public notices will also, in the event mutually exclusive applications are filed for broadcast construction permits that must be resolved through competitive bidding, contain information about the method of competitive bidding to be used and more detailed instructions on submitting bids and otherwise participating in the auction. In the event applications are submitted that are not mutually exclusive with any other application in the same service, or in the event that any applications that are submitted that had been mutually exclusive with other applications in the same service are resolved as a result of the dismissal or modification of any applications, the non-mutually exclusive applications will be identified by public notice and will not be subject to auction.

(b) To participate in broadcast service auctions, or to apply for a noncommercial educational station, as described in 47 U.S.C. 397(6), on a non-reserved channel, all applicants must timely submit short-form applications (FCC Form 175), along with all required certifications, information and exhibits, pursuant to the provisions of § 1.2105(a) of this chapter and any Commission public notices. So determinations of mutual exclusivity for auction purposes can be made, applicants for non-table broadcast services must also submit the engineering data contained in the appropriate FCC form (FCC Form 301, FCC Form 346, or FCC Form 349). Beginning January 1, 1999, all short-form applications must be filed electronically. If any application for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), is mutually exclusive with applications for commercial broadcast stations, and the applicants that have the opportunity to resolve the mutually exclusivity pursuant to paragraphs (c) and

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(d) of this section fail to do so, the application for noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), will be returned as unacceptable for filing, and the remaining applications for commercial broadcast stations will be processed in accordance with competitive bidding procedures.

(c) Applicants in all broadcast service auctions, and applicants for noncommercial educational stations, as described in 47 U.S.C. 397(6), on non-reserved channels will be subject to the provisions of § 1.2105(b) of this chapter regarding the modification and dismissal of their short-form applications. Notwithstanding the general applicability of § 1.2105(b) of this chapter to broadcast auctions, and applicants for noncommercial educational stations, as described in 47 U.S.C. 397(6), on non-reserved channels, the following applicants will be permitted to resolve their mutual exclusivities by making amendments to their engineering submissions following the filing of their short-form applications:

(1) Applicants for all broadcast services who file major modification applications that are mutually exclusive with each other;

(2) Applicants for all broadcast services who file major modification and new station applications that are mutually exclusive with each other; or

(3) Applicants for the secondary broadcast services who file applications for new stations that are mutually exclusive with each other.

(d) The prohibition of collusion set forth in § 1.2105(c) of this chapter, which becomes effective upon the filing of short-form applications, shall apply to all broadcast service auctions. Notwithstanding the general applicability of § 1.2105(c) of this chapter to broadcast auctions, the following applicants will be permitted to resolve their mutual exclusivities by means of engineering solutions or settlements during a limited period after the filing of short-form applications, as further specified by Commission public notices:

(1) Applicants for all broadcast services who file major modification applications that are mutually exclusive with each other;

(2) Applicants for all broadcast services who file major modification and new station applications that are mutually exclusive with each other; or

(3) Applicants for the secondary broadcast services who file applications for new stations that are mutually exclusive with each other.

(e) Applicants seeking to resolve their mutual exclusivities by means of engineering solution or settlement during a limited period as specified by public notice, pursuant to paragraph (d) of this section, may submit a non-universal engineering solution or settlement proposal, so long as such engineering solution or settlement proposal results in the grant of at least one application from the mutually exclusive group. A technical amendment submitted under this subsection must resolve all of the applicant's mutual exclusivities with respect to the other applications in the specified mutually exclusive application group.

[69 FR 72043, Dec. 10, 2004, as amended at 75 FR 9806, Mar. 4, 2010]

### § 73.5003 Submission of full payments.

Winning bidders are required to pay the balance of their winning bids in a lump sum prior to the deadline established by the Commission pursuant to § 1.2109(a) of this chapter. If a winning bidder fails to pay the balance of its winning bid 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 (5) percent of the amount due in accordance with § 1.2109(a) of this chapter. Broadcast construction permits will be granted by the Commission only after full and timely payment of winning bids and any applicable late fees and in accordance with the provisions of this section.

[71 FR 6228, Feb. 7, 2006]

### § 73.5004 [Reserved]

### § 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, each