

§ 90.713 Entry criteria.

(a) As set forth in § 90.717, four 5-channel blocks are available for nationwide, commercial use to non-Government, Phase I applicants. Applicants for these nationwide channel blocks must comply with paragraphs (b), (c), and (d) of this section.

(b)(1) An applicant must include certification that, within ten years of receiving a license, it will construct a minimum of one base station in at least 70 different geographic areas designated in the application; that base stations will be located in a minimum of 28 of the 100 urban areas listed in § 90.741; and that each base station will have all five assigned nationwide channels constructed and placed in operation (regularly interacting with mobile and/or portable units).

(2) An applicant must include certification that it will meet the construction requirements set forth in § 90.725.

(3) An applicant must include a ten-year schedule detailing plans for construction of the proposed system.

(4) An applicant must include an itemized estimate of the cost of constructing 40 percent of the system and operating the system during the first four years of the license term.

(5) An applicant must include proof that the applicant has sufficient financial resources to construct 40 percent of the system and operate the proposed land mobile system for the first four years of the license term; *i.e.*, that the applicant has net current assets sufficient to cover estimated costs or a firm financial commitment sufficient to cover estimated costs.

(c) An applicant relying on personal or internal resources for the showing required in paragraph (b) of this section must submit independently audited financial statements certified within one year of the date of the application showing net current assets sufficient to meet estimated construction and operating costs. An applicant must also submit an unaudited balance sheet, current within 60 days of the date of submission, that clearly shows the continued availability of sufficient net current assets to construct and operate the proposed system, and a certification by the applicant or an officer

of the applicant organization attesting to the validity of the balance sheet.

(d) An applicant submitting evidence of a firm financial commitment for the showing required in paragraph (b) of this section must obtain the commitment from a bona fide commercially acceptable source, *e.g.*, a state or federally chartered bank or savings and loan institution, other recognized financial institution, the financial arm of a capital equipment supplier, or an investment banking house. If the lender is not a state or federally chartered bank or savings and loan institution, other recognized financial institution, the financial arm of a capital equipment supplier, or an investment banking house, the lender must also demonstrate that it has funds available to cover the total commitments it has made. The lender's commitment shall contain a statement that the lender:

(1) Has examined the financial condition of the applicant including an audited financial statement, and has determined that the applicant is credit-worthy;

(2) Has examined the financial viability of the proposed system for which the applicant intends to use the commitment; and

(3) Is willing, if the applicant is seeking a Phase I, commercial nationwide license, to provide a sum to the applicant sufficient to cover the realistic and prudent estimated costs of construction of 40 percent of the system and operation of the system for the first four years of the license term.

(e) A Phase II applicant for authorization in a geographic area for Channels 166 through 170 in the public safety/mutual aid category may not have any interest in another pending application in the same geographic area for Channels 166 through 170 in the public safety/mutual aid category, and a Phase II applicant for authorization in a geographic area for channels in the emergency medical category may not have any interest in another pending application in the same geographic area for channels in the emergency medical category.

[62 FR 15994, Apr. 3, 1997, as amended at 62 FR 18935, Apr. 17, 1997]