

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 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 requirements 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