

Federal Communications Commission

§ 1.2102

amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862. If a section 5301 certification has been incorporated into the FCC application form being filed, the applicant need not submit a separate certification. If a section 5301 certification has not been incorporated into the FCC application form being filed, the applicant shall be deemed to have certified by signing the application, unless an exhibit is included stating that the signature does not constitute such a certification and explaining why the applicant is unable to certify. If no FCC application form is involved, the applicant must attach a certification to its written application. If the applicant is unable to so certify, the applicant shall be ineligible for the authorization for which it applied, and will have 90 days from the filing of the application to comply with this rule. If a section 5301 certification has been incorporated into the FCC application form, failure to respond to the question concerning certification shall result in dismissal of the application pursuant to the relevant processing rules.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;

(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission, or to

Federal, State or local governmental entities or subdivisions thereof.

(d) The provisions of paragraphs (a) and (b) of this section are applicable to spectrum lessees (*see* §1.9003 of subpart X of this part) engaged in spectrum manager leasing arrangements and *de facto* transfer leasing arrangements pursuant to the rules set forth in subpart X of this part.

[57 FR 187, Jan. 3, 1992, as amended at 58 FR 8701, Feb. 17, 1993; 60 FR 39269, Aug. 2, 1995; 68 FR 66277, Nov. 25, 2003]

Subpart Q—Competitive Bidding Proceedings

SOURCE: 59 FR 44293, Aug. 26, 1994, unless otherwise noted.

GENERAL PROCEDURES

§ 1.2101 Purpose.

The provisions of §§1.2101 through 1.2114 implement section 309(j) of the Communications Act of 1934, as added by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66) and subsequent amendments.

[79 FR 48528, Aug. 15, 2014]

§ 1.2102 Eligibility of applications for competitive bidding.

(a) Mutually exclusive initial applications are subject to competitive bidding.

(b) The following types of license applications are not subject to competitive bidding procedures:

(1) Public safety radio services, including private internal radio services used by state and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that

(i) Are used to protect the safety of life, health, or property; and

(ii) Are not commercially available to the public;

(2) Initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(3) Noncommercial educational and public broadcast stations described under 47 U.S.C. 397(6).

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(c) [Reserved]

NOTE TO § 1.2102: To determine the rules that apply to competitive bidding, specific service rules should also be consulted.

[59 FR 44293, Aug. 26, 1994, as amended at 60 FR 40718, Aug. 9, 1995; 62 FR 23163, Apr. 29, 1997; 63 FR 10780, Mar. 5, 1998; 79 FR 48528, Aug. 15, 2014]

§ 1.2103 Competitive bidding design options.

(a) *Public notice of competitive bidding design options.* Prior to any competitive bidding for initial licenses, public notice shall be provided of the detailed procedures that may be used to implement auction design options.

(b) *Competitive bidding design options.* The public notice detailing competitive bidding procedures may establish procedures for collecting bids, assigning winning bids, and determining payments, including without limitation:

(1) *Procedures for collecting bids.* (i) Procedures for collecting bids in a single round or in multiple rounds.

(ii) Procedures allowing for bids for specific items, bids for generic items in one or more categories of items, or bids for one or more aggregations of items.

(iii) Procedures allowing for bids that specify a price, indicate demand at a specified price, or provide other information as specified by competitive bidding policies, rules, and procedures.

(iv) Procedures allowing for bids that are contingent on specified conditions, such as other bids being accepted or for packages of licenses being awarded.

(v) Procedures to collect bids in one or more stages, including procedures for transitions between stages.

(vi) Procedures for whether, when, and how bids may be modified during the auction.

(2) *Procedures for assigning winning bids.* (i) Procedures that take into account one or more factors in addition to the submitted bid amount, including but not limited to the amount of bids submitted in separate competitive bidding.

(ii) Procedures to assign specific items to bidders following bidding for quantities of generic items.

(iii) Procedures to incorporate public interest considerations into the process for assigning winning bids.

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(3) *Procedures for determining payments.* Procedures to determine the amount of any payments made to or by winning bidders consistent with other auction design choices.

[79 FR 48528, Aug. 15, 2014]

§ 1.2104 Competitive bidding mechanisms.

(a) *Sequencing.* The Commission will establish the sequence in which multiple licenses will be auctioned.

(b) *Grouping.* In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determine which licenses will be auctioned simultaneously or in combination.

(c) *Reserve Price.* The Commission may establish a reserve price or prices, either disclosed or undisclosed, below which a license or licenses subject to auction will not be awarded. For any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) requiring the recovery of estimated relocation costs, the Commission will establish a reserve price or prices pursuant to which the total cash proceeds from any auction of eligible frequencies shall equal at least 110 percent of the total estimated relocation costs provided to the Commission by the National Telecommunications and Information Administration pursuant to section 113(g)(4) of such Act (47 U.S.C. 923(g)(4)).

(d) *Minimum Bid Increments, Minimum Opening Bids and Maximum Bid Increments.* The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms. The Commission also may establish minimum opening bids and maximum bid increments on a service-specific basis.

(e) *Stopping procedures.* Before or during an auction, procedures may be established regarding when bidding will stop for a round, a stage, or an entire auction, in order to terminate the auction within a reasonable time and in accordance with public interest considerations and the goals, statutory requirements, rules, and procedures for