

Federal Communications Commission

§ 27.1213

§ 27.1209 Reversion and overlay rights.

(a) The frequencies associated with BRS incumbent authorizations that have cancelled automatically or otherwise recovered by the Commission automatically revert to the applicable BRS BTA licensee.

(b) The frequencies associated with EBS incumbent authorizations with a geographic service area that have cancelled automatically or otherwise recovered by the Commission automatically revert to a co-channel EBS county-based licensee, except that if the area in question is Tribal Land as defined in § 27.1204(b)(3) and is contiguous to the GSA of a co-channel authorization issued in the Tribal Priority Window, the area consisting of Tribal Land reverts to the co-channel license issued in the Tribal Priority Window.

(c) The frequencies associated with EBS authorizations issued in the Tribal Priority Window with a geographic service area that have cancelled automatically or otherwise recovered by the Commission automatically revert to a co-channel EBS county-based authorization.

[84 FR 57366, Oct. 25, 2019]

§ 27.1210 Remote control operation.

Licensed BRS/EBS stations may be operated by remote control without further authority.

§ 27.1211 Unattended operation.

Unattended operation of licensed BRS/EBS stations is permitted without further authority. An unattended relay station may be employed to receive and retransmit signals of another station provided that the transmitter is equipped with circuits which permit it to radiate only when the signal intended to be retransmitted is present at the receiver input terminals.

§ 27.1212 License term.

(a) BRS/EBS licenses shall be issued for a period of 10 years beginning with the date of grant.

(b) An initial BTA authorization shall be issued for a period of ten years from the date the Commission declared bidding closed in the MDS auction.

§ 27.1213 Designated entity provisions for BRS in Commission auctions commencing prior to January 1, 2004.

(a) *Eligibility for small business provisions.* For purposes of Commission auctions commencing prior to January 1, 2004 for BRS licenses, a small business is an entity that together with its affiliates has average annual gross revenues that are not more than \$40 million for the preceding three calendar years.

(b) *Designated entities.* As specified in this section, designated entities that are winning bidders in Commission auctions commencing prior to January 1, 2004 for BTA service areas are eligible for special incentives in the auction process. See 47 CFR 1.2110.

(c) *Installment payments.* Small businesses and small business consortia may elect to pay the full amount of their winning bids in Commission auctions commencing prior to January 1, 2004 for BTA service areas in installments over a ten (10) year period running from the date that their BTA authorizations are issued.

(1) Upon issuance of a BTA authorization to a winning bidder in a Commission auction commencing prior to January 1, 2004 that is eligible for installment payments, the Commission will notify such eligible BTA authorization holder of the terms of its installment payment plan. For BRS, such installment payment plans will:

(i) Impose interest based on the rate of ten (10) year U.S. Treasury obligations at the time of issuance of the BTA authorization, plus two and one half (2.5) percent;

(ii) Allow installment payments for a ten (10) year period running from the date that the BTA authorization is issued;

(iii) Begin with interest-only payments for the first two (2) years; and

(iv) Amortize principal and interest over the remaining years of the ten (10) year period running from the date that the BTA authorization is issued.

(2) *Conditions and obligations.* See § 1.2110(g)(4) of this chapter.

(3) *Unjust enrichment.* If an eligible BTA authorization holder that utilizes installment financing under this subsection seeks to partition, pursuant to applicable rules, a portion of its BTA

containing one-third or more of the population of the area within its control in the licensed BTA to an entity not meeting the eligibility standards for installment payments, the holder must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of partition as a condition of approval.

(d) *Reduced upfront payments.* For purposes of Commission auctions commencing prior to January 1, 2004 for BRS licenses, a prospective bidder that qualifies as a small business, or as a small business consortia, is eligible for a twenty-five (25) percent reduction in the amount of the upfront payment otherwise required. To be eligible to bid on a particular BTA, a small business will be required to submit an upfront payment equal to seventy-five (75) percent of the upfront payment amount specified for that BTA in the public notice listing the upfront payment amounts corresponding to each BTA service area being auctioned.

(e) *Bidding credits.* For purposes of Commission auctions commencing prior to January 1, 2004 for BRS licenses, a winning bidder that qualifies as a small business, or as a small business consortia, may use a bidding credit of fifteen (15) percent to lower the cost of its winning bid on any of the BTA authorizations awarded in the Commission BRS auctions commencing prior to January 1, 2004.

(f) *Short-form application certification; Long-form application or statement of intention disclosure.* A BRS applicant in a Commission auction commencing prior to January 1, 2004 claiming designated entity status shall certify on its short-form application that it is eligible for the incentives claimed. A designated entity that is a winning bidder for a BTA service area(s) shall, in addition to information otherwise required, file an exhibit to either its initial long-form application for a BRS station license, or to its statement of intention with regard to the BTA, which discloses the gross revenues for each of the past three years of the winning bidder and its affiliates. This exhibit shall describe how the winning bidder claiming status as a designated entity satisfies the designated entity eligibility requirements,

and must list and summarize all agreements that affect designated entity status, such as partnership agreements, shareholder agreements, management agreements and other agreements, including oral agreements, which establish that the designated entity will have both de facto and de jure control of the entity. See 47 CFR 1.2110(i).

(g) *Records maintenance.* All holders of BTA authorizations acquired in a Commission auction commencing prior to January 1, 2004 that claim designated entity status shall maintain, at their principal place of business or with their designated agent, an updated documentary file of ownership and revenue information necessary to establish their status. Holders of BTA authorizations or their successors in interest shall maintain such files for a ten (10) year period running from the date that their BTA authorizations are issued. The files must be made available to the Commission upon request.

[69 FR 72034, Dec. 10, 2004, as amended at 71 FR 35190, June 19, 2006]

§ 27.1214 EBS grandfathered leases.

All leases of current EBS spectrum entered into prior to January 10, 2005 and in compliance with leasing rules contained in 47 CFR part 74, revised as of October 1, 2004, may continue in force and effect, notwithstanding any inconsistency between such leases and the rules applicable to spectrum leasing arrangements set forth in this chapter. Such leases entered into pursuant to the rules formerly contained in 47 CFR part 74 may be renewed and assigned in accordance with the terms of such lease. All spectrum leasing arrangements entered into after January 10, 2005, under the rules set forth in part 1 of this chapter and this part, must comply with the rules in those parts.

[84 FR 57366, Oct. 25, 2019]

§ 27.1215 BRS grandfathered leases.

(a) All leases of current BRS spectrum entered into prior to January 10, 2005 and in compliance with rules formerly contained in part 21 of this chapter may continue in force and effect,