

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 leases 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,

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 former part 21 of this chapter may be renewed and assigned in accordance with the terms of such lease. All spectrum leasing arrangements leases entered into after January 10, 2005, pursuant to the rules set forth in part 1 and part 27 of this chapter must comply with the rules in those parts.

§ 27.1216 Grandfathered E and F group EBS licenses.

(a) Except as noted in paragraph (b) of this section, grandfathered EBS licensees authorized to operate E and F group co-channel licenses are granted a geographic service area (GSA) on July 19, 2006. The GSA is the area bounded by a circle having a 35 mile radius and centered at the station's reference coordinates, and is bounded by the chord(s) drawn between intersection points of that circle and those of respective adjacent market, co-channel licensees.

(b) If there is more than 50 percent overlap between the calculated GSA of a grandfathered EBS license and the protected service area of a co-channel BRS license, the licensees shall not be immediately granted a geographic service area. Instead, the grandfathered EBS license and the co-channel BRS licensee must negotiate in good faith to reach a solution that accommodates the communication needs of both licensees. If the co-channel licensees reach a mutually agreeable solution on or before October 17, 2006, then the GSA of each co-channel license shall be as determined pursuant to the agreement of the parties. If a mutually agreeable solution between co-channel licensees is not reached on or before October 17, 2006, then each co-channel licensee shall receive a GSA determined pursuant to paragraph (a) of this section and § 27.1206(a).

[71 FR 35191, June 16, 2006]

§ 27.1217 Competitive bidding procedures for the Broadband Radio Service and the Educational Broadband Service.

Mutually exclusive initial applications for BRS and EBS licenses are subject to competitive bidding. For BRS auctions, the designated entity provisions of § 27.1218 apply. For EBS auctions, the designated entity provisions of § 27.1219 apply. The general competitive bidding procedures set forth in part 1, subpart Q, of this chapter apply unless otherwise provided in this subpart.

[84 FR 57366, Oct. 25, 2019]

§ 27.1218 Broadband Radio Service designated entity provisions.

(a) *Eligibility for small business provisions.* (1) A small business is an entity that, together with all attributed parties, has average gross revenues that are not more than \$40 million for the preceding three years.

(2) A very small business is an entity that, together with all attributed parties, has average gross revenues that are not more than \$15 million for the preceding three years.

(3) An entrepreneur is an entity that, together with all attributed parties, has average gross revenues that are not more than \$3 million for the preceding three years.

(b) *Bidding credits.* (1) A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses, may use a bidding credit of 15 percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid on any of the licenses in this subpart.

(2) A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses, may use a bidding credit of 25 percent, as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid on any of the licenses in this subpart.

(3) A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs, may use a bidding credit of 15 percent, as specified in § 1.2110(f)(2)(i) of this