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aggregate, of the labor force in the applicant's labor recruitment area. Applicants exempt from the filing requirement should submit a statement of explanation with their applications.

(d) Each licensee or permittee with five or more full-time employees shall file an annual employment report with the FCC on or before May 31 of each year on FCC Form 395.

(e) Notwithstanding other EEO provisions within these rules, an entity that uses an owned or leased DBS facility operating under this part to provide more than one channel of video programming directly to the public must comply with the equal employment opportunity requirements set forth in part 76, subparts E and U of this chapter, if such entity exercises control (as defined in part 76, subparts E and U of this chapter) over the video programming it distributes.

[47 FR 31574, July 21, 1982, as amended at 58 FR 42251, Aug. 9, 1993; 65 FR 53624, Sept. 5, 2000]

EFFECTIVE DATE NOTE: At 65 FR 53624, Sept. 5, 2000, §100.51 was amended by removing "part 76, subpart E" and adding "part 76, subparts E and U", effective Oct. 5, 2000.

### § 100.53 Geographic service requirements.

(a) Those holding DBS permits or licenses as of January 19, 1996 must either:

(1) Provide DBS service to Alaska and Hawaii from one or more orbital locations before the expiration of their current authorizations; or

(2) Relinquish their western DBS orbital/channel assignments at the following orbital locations: 148° W.L., 157°W.L., 166° W.L., and 175° W.L.

(b) Those acquiring DBS authorizations after January 19, 1996 must provide DBS service to Alaska and Hawaii where such service is technically feasible from the acquired orbital location.

[60 FR 65595, Dec. 20, 1995]

## 47 CFR Ch. I (10-1-00 Edition)

### Subpart E—Competitive Bidding Procedures for DBS

SOURCE: 60 FR 65595, Dec. 20, 1995, unless otherwise noted.

#### § 100.71 DBS subject to competitive bidding.

Mutually exclusive initial applications to provide DBS service are subject to competitive bidding procedures. The general competitive bidding procedures found in part 1, subpart Q of this chapter, will apply unless otherwise provided in this part.

#### § 100.72 Competitive bidding design for DBS construction permits.

(a) The Commission will employ the following competitive bidding designs when choosing from among mutually exclusive initial applications to provide DBS service:

(1) Single round sealed bid auctions (either sequential or simultaneous);

(2) Sequential oral auctions;

(3) Combined sealed bid-oral auctions;

(4) Sequential multiple round electronic auctions; or

(5) Simultaneous multiple round auctions.

(b) The Wireless Telecommunications Bureau may design and test alternative procedures. The Wireless Telecommunications Bureau will announce by Public Notice before each auction the competitive bidding design to be employed in a particular auction.

(c) The Wireless Telecommunications Bureau may use combinatorial bidding, which would allow bidders to submit all or nothing bids on combinations of construction permits, in addition to bids on individual construction permits. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified amount. Combinatorial bidding may be used with any type of auction design.

(d) The Wireless Telecommunications Bureau may use single combined auctions, which combine bidding for two

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or more substitutable construction permits and award construction permits to the highest bidders until the available construction permits are exhausted. This technique may be used in conjunction with any type of auction.

### § 100.73 Competitive bidding mechanisms.

(a) *Sequencing.* In sequential auctions, the Wireless Telecommunications Bureau will generally auction DBS construction permits in order of their estimated value, with the highest value construction permit being auctioned first. The Wireless Telecommunications Bureau may vary the sequence in which DBS construction permits will be auctioned.

(b) *Grouping.* All DBS channels available for a particular orbital location will be auctioned as a block, unless the Wireless Telecommunications Bureau announces, by Public Notice prior to the auction, an alternative auction scheme. In the event the Wireless Telecommunications Bureau uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Wireless Telecommunications Bureau will determine which construction permits will be auctioned simultaneously or in combination.

(c) *Bid increments and tie bids.* The Wireless Telecommunications Bureau may, by announcement before or during an auction, establish, raise or lower minimum bid increments in dollar or percentage terms. The Wireless Telecommunications Bureau may establish and change maximum bid increments during an auction. The Wireless Telecommunications Bureau may also establish by Public Notice a suggested opening bid or a minimum opening bid on each construction permit. Where a tie bid occurs, the high bidder will be determined by the order in which the bids were received by the Commission.

(d) *Stopping rules.* The Wireless Telecommunications Bureau may establish stopping rules before or during multiple round auctions in order to terminate an auction within a reasonable time.

(e) *Activity rules.* The Wireless Telecommunications Bureau may establish activity rules which require a minimum amount of bidding activity. In

the event that the Wireless Telecommunications Bureau establishes an activity rule in connection with a simultaneous multiple round auction or sequential multiple round electronic auction, each bidder will be automatically granted a certain number of waivers of such rule during the auction.

### § 100.74 Withdrawal, default and disqualification payments.

(a) When the Commission conducts a sequential multiple round electronic auction or simultaneous multiple round auction pursuant to § 100.72, the Wireless Telecommunications Bureau will impose payments on a bidder who withdraws a high bid during the course of the auction, who defaults on payments due, or who is disqualified.

(b) A bidder who withdraws a high bid during the course of such an auction will be assessed a payment equal to the difference between the amount bid and the amount of the winning bid the next time the construction permit is offered for auction by the Commission. No withdrawal payment will be assessed if the subsequent winning bid exceeds the withdrawn bid. This payment amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(c) If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (b) of this section plus an additional payment equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission.

(d) When the Commission conducts a sequential multiple round electronic auction, the Wireless Telecommunications Bureau will bar a bidder who withdraws a bid from continued participation in the auction of the withdrawn construction permit. When the Commission conducts any other type of