

auction, the Wireless Telecommunications Bureau may bar a bidder who withdraws a bid from continued participation in the bidding for the same construction permit or other construction permits offered in the same auction.

(e) When the Commission conducts any type of auction other than those provided for in paragraphs (a), (b), (c), and (d) of this section, the Wireless Telecommunications Bureau may modify the payments to be paid in the event of bid withdrawal, default or disqualification; provided, however, that such payments shall not exceed the payments specified above.

§ 100.75 Bidding application (FCC Form 175 and 175-S Short-form).

All applicants to participate in competitive bidding for DBS construction permits must submit applications on FCC Form 175 pursuant to the provisions of § 1.2105 of this chapter. The Wireless Telecommunications Bureau will issue a Public Notice announcing the availability of DBS construction permits and the date of the auction for those construction permits. This Public Notice also will specify the date on or before which applicants intending to participate in a DBS auction must file their applications in order to be eligible for that auction, and it will contain information necessary for completion of the application as well as other important information such as any upfront payment that must be submitted, and the location where the application must be filed.

§ 100.76 Submission of upfront payments and down payments.

(a) Bidders in DBS auctions will be required to submit an upfront payment in accordance with § 1.2106 of this chapter, the amount of which will be announced by Public Notice prior to each auction.

(b) Winning bidders in a DBS auction must submit a down payment to the Commission in an amount sufficient to bring their total deposits up to 20 percent of their winning bids within ten (10) business days of the announcement of winning bidders.

§ 100.77 Long-form applications.

Each winning bidder will be required to submit the information described in §§ 100.13, 100.21, and 100.51 within thirty (30) days after being notified by Public Notice that it is the winning bidder. Each winner also will be required to file, by the same deadline, a signed statement describing its efforts to date and future plans to come into compliance with any applicable spectrum limitations, if it is not already in compliance. Such information shall be submitted pursuant to the procedures set forth in § 100.13 and any associated Public Notices. Only auction winners will be eligible to file applications for DBS construction permits in the event of mutual exclusivity between applicants filing a short-form application.

§ 100.78 Permit grant, denial, default, and disqualification.

(a) Each winning bidder will be required to pay the balance of its winning bid in a lump sum payment within five (5) business days following Public Notice that the construction permit is ready for grant.

(b) A bidder who withdraws its bid during the course of an auction, defaults on a payment due, or is disqualified, will be subject to the payments specified in § 100.74.

§ 100.79 Prohibition of collusion.

(a) Bidders are required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the competitive bidding process. Bidders are also required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bid, bidding strategies or the particular properties on which they will or will not bid.

(b)(1) Except as provided in paragraphs (b)(2), (b)(3) and (b)(4) of this section, after the filing of short-form applications, all applicants are prohibited from cooperating, collaborating, discussing or disclosing in any manner

the substance of their bids or bidding strategies, or discussing or negotiating settlement agreements, with other applicants until after the high bidder submits its downpayment, unless such applicants are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application.

(2) Applicants may modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided that such changes do not result in a change in control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for construction permits that may be used to serve the same or overlapping geographic areas. Such changes will not be considered major modifications of the application.

(3) After the filing of short-form applications, applicants may make agreements to bid jointly for construction permits, provided that the parties to the agreement have not applied for construction permits that may be used to serve the same or overlapping geographic areas.

(4) After the filing of short-form applications, a holder of a non-controlling attributable interest in an entity submitting a short-form application may acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with, other applicants for construction permits that may be used to serve the same or overlapping geographic areas, provided that:

(i) The attributable interest holder certifies to the Commission that it has not communicated and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has a consortium or joint bidding arrangement, and which have applied for construction permits that may be used to serve the same or overlapping geographic areas; and

(ii) The arrangements do not result in any change in control of an applicant.

(5) Applicants must modify their short-form applications to reflect any

changes in ownership or in the membership of consortia or joint bidding arrangements.

(c) Winning bidders are required to submit a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement they have entered into relating to the competitive bidding process prior to the close of bidding. Such arrangements must have been entered into prior to the filing of short-form applications pursuant to paragraphs (a) and (b) of this section.

§ 100.80 Transfer disclosure.

Any entity that acquires a DBS license through competitive bidding, and seeks to transfer that license within six years of the initial license grant, must file, together with its application for FCC consent to the transfer, the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration received in return for the transfer of its license. The information submitted must include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration.

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