

§21.961

47 CFR Ch. I (10–1–00 Edition)

(g) *Audits.* BTA authorization holders claiming eligibility under designated entity provisions shall be subject to audits by the Commission, using in-house or contract resources. Selection for an audit may be random, on information, or on the basis of other factors. Consent to such audits is part of the certification included in the short-form application. Such consent shall include consent to the audit of the holders' books, documents and other material (including accounting procedures and practices), regardless of form or type, sufficient to confirm that such holders' representations are, and remain, accurate. Such consent shall also include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business or keeping records regarding licensed MDS offerings, and shall also include consent to the interviewing of principals, employees, customers, and suppliers of the BTA authorization holders.

[60 FR 36560, July 17, 1995, as amended at 60 FR 57367, Nov. 15, 1995; 63 FR 2348, Jan. 15, 1998]

§21.961 Definitions applicable to designated entity provisions.

(a) *Scope.* The definitions in this section apply to §21.960, unless otherwise specified in that section.

(b) *Small business; consortium of small businesses.*

(1) 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.

(2) *Aggregation of gross revenues.*

(i) Except as specified in paragraph (b)(2)(ii) of this section, the gross revenues of the applicant (or BTA authorization holder) and its affiliates shall be considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or holder) is a small business.

(ii) Where an applicant (or BTA authorization holder) is a consortium of small businesses, the gross revenues of each small business shall not be aggregated.

(3) A small business consortium is a conglomerate organization formed as a joint venture between mutually-inde-

pendent business firms, each of which individually satisfies the definition of a small business.

(c) *Gross revenues* shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (e.g., cost of goods sold), as evidenced by audited financial statements for the preceding relevant number of calendar years, or, if audited financial statements were not prepared on a calendar-year basis, for the preceding relevant number of fiscal years. If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate.

(d) The definition of an affiliate of an applicant is set forth in 47 CFR 1.2110(b)(4).

[60 FR 36562, July 17, 1995, as amended at 60 FR 57368, Nov. 15, 1995]

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