

Federal Communications Commission

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(ii) A telephone number providing immediate access to personnel capable of resolving ongoing interference or coordination problems with the station;

(iii) A unique ten digit serial number of random number code programmed into the ATIS device in a permanent manner such that it cannot be readily changed by the operator on duty;

(iv) Additional information may be included within the ATIS data stream provided the total message length, including ATIS, does not exceed 30 seconds.

[55 FR 21551, May 25, 1990. Redesignated at 62 FR 5932, Feb. 10, 1997]

Subpart E [Reserved]

Subpart F—Competitive Bidding Procedures for DARS

SOURCE: 62 FR 11106, Mar. 11, 1997, unless otherwise noted.

§ 25.401 Satellite DARS applications subject to competitive bidding.

Mutually exclusive initial applications filed by Satellite CD Radio, Primosphere Limited Partnership, Digital Satellite Broadcasting Corporation, and American Mobile Radio Corporation, to provide DARS service are subject to competitive bidding procedures. The procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise specified in this subpart.

§ 25.402 Competitive bidding mechanisms.

(a) *Tie bids*. Where a tie bid occurs, the high bidder will be determined by the order in which the bids were received by the Commission.

(b) *Maximum bid increments*. The Commission may, by announcement before or during the auction, establish maximum bid increments in dollar or percentage terms.

(c) *Minimum opening bid*. The Commission will establish a minimum opening bid for the DARS spectrum, and the amount of which will be announced by Public Notice prior to the auction.

(d) *Activity rules*. The Commission will establish activity rules which re-

quire a minimum amount of bidding activity. Bidders will be entitled to request and be granted waivers of such rule. The Commission will specify the number of waivers permitted in an auction, the frequency with which they may be exercised, and the method of operation of waivers by Public Notice prior to the auction.

§ 25.403 Bidding application and certification procedures.

Submission of Supplemental Application Information. In order to be eligible to bid, each pending applicant must timely submit certain supplemental information. All supplemental information shall be filed by the applicant five days after publication of these rules in the FEDERAL REGISTER. The supplemental information must be certified and include the following:

- (a) Applicant's name;
- (b) Mailing Address (no Post Office boxes);
- (c) City;
- (d) State;
- (e) ZIP Code;
- (f) Auction Number 15;
- (g) FCC Account Number;
- (h) Person(s) authorized to make or withdraw a bid (list up to three individuals);
- (i) Certifications and name and title of person certifying the information provided;
- (j) Applicant's contact person and such person's telephone number, E-mail address and FAX number; and
- (k) Signature and date.

§ 25.404 Submission of down payment and filing of long-form applications.

(a) After bidding has ended, the Commission will identify and notify the high bidder and declare the bidding closed.

(b) Within ten (10) business days of a Public Notice announcing the high bidder on a particular license(s), a high bidder must submit to the Commission's lockbox bank such additional funds (the "down payment") as are necessary to bring its total deposits (not including upfront payments applied to satisfy bid withdrawal or default payments) up to twenty (20) percent of its high bid(s). This down payment must be made by wire transfer or

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cashier's check drawn in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission. Down payments will be held by the Commission until the high bidder has been awarded the license and has paid the remaining balance due on the license, in which case it will not be returned, or until the winning bidder is found unqualified to be a licensee or has defaulted, in which case it will be returned, less applicable payments. No interest on any down payment will be paid to a bidder.

(c) A high bidder that meets its down payment obligations in a timely manner must, within thirty (30) business days after being notified that it is a high bidder, submit an amendment to its pending application to provide the information required by § 25.144.

§ 25.405 Prohibition of collusion.

Upon the deadline for filing the supplemental information required by § 25.403, 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 makes the required down payment.

§ 25.406 License grant, denial, default, and disqualification.

(a) Unless otherwise specified in these rules, auction winners are required to pay the balance of their winning bids in a lump sum within ten (10) business days following public notice by the Commission that it is prepared to award the licenses. Grant of the license will be conditioned on full and timely payment of the winning bid.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in § 1.2104(g)(2). In such event, the Commission may either re-auction the li-

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cence to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. The down payment obligations set forth in § 25.404(b) will apply.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted and will be liable for the penalty set forth in § 1.2104(g)(2). In such event, the Commission will conduct another auction for the license, affording new parties an opportunity to file an application for the license.

(d) Bidders who are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture their up front payment, down payment or full bid amount, and may be prohibited from participating in future auctions.

Subpart G [Reserved]

Subpart H—Authorization To Own Stock in the Communications Satellite Corporation

SOURCE: 28 FR 13037, Dec. 5, 1963, unless otherwise noted.

§ 25.501 Scope of this subpart.

The provisions of this subpart govern the administration of section 304 of the Communications Satellite Act of 1962. These rules provide the procedure by which Commission authorization may be obtained for the purchase of stock in the corporation, the form and content of the application, and the scope of the authorization which may be granted.

§ 25.502 Definitions.

(a) *Communications common carrier.* See § 25.103(a).

(b) *Authorized carrier.* For the purposes of this subpart, the term "authorized carrier" means a communications common carrier which is specifically authorized or which is a member of a class of carriers authorized by the