

permits and ITFS licenses will be auctioned.

(2) *Grouping.* In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding in broadcast service or ITFS auctions, the Commission will determine which construction permits or licenses will be auctioned simultaneously or in combination.

(3) *Reservation price.* The Commission may establish a reservation price, either disclosed or undisclosed, below which a broadcast construction permit or ITFS license subject to auction will be not awarded.

(4) *Minimum and maximum bid increments.* The Commission may, by announcement before or during broadcast service or ITFS auctions, require minimum bid increments in dollar or percentage terms. The Commission may, by announcement before or during broadcast service or ITFS auctions, establish maximum bid increments in dollar or percentage terms.

(5) *Minimum opening bids.* The Commission may establish a minimum opening bid for each broadcast construction permit or ITFS license subject to auction.

(6) *Stopping rules.* The Commission will establish stopping rules before or during multiple round broadcast service or ITFS auctions in order to terminate the auction within a reasonable time.

(7) *Activity rules.* The Commission will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted a certain number of waivers of such rule during the auction.

§ 73.5002 Bidding application and certification procedures; prohibition of collusion.

(a) Prior to any broadcast service or ITFS auction, the Commission will issue a public notice announcing the upcoming auction and specifying the period during which all applicants seeking to participate in an auction must file their applications for new

broadcast or ITFS facilities or for major changes to existing facilities. Broadcast service or ITFS applications for new facilities or for major modifications will be accepted only during these specified periods. This initial and other public notices will contain information about the completion and submission of applications to participate in the broadcast or ITFS auction, any materials that must accompany the applications, and any filing fee that must accompany the applications or any upfront payments that will need to be submitted. Such public notices will also, in the event mutually exclusive applications are filed for broadcast construction permits or ITFS licenses, contain information about the method of competitive bidding to be used and more detailed instructions on submitting bids and otherwise participating in the auction. In the event applications are submitted that are not mutually exclusive with any other application in the same service, such applications will be identified by public notice and will not be subjected to auction.

(b) To participate in broadcast service or ITFS auctions, all applicants must timely submit short-form applications (FCC Form 175), along with all required certifications, information and exhibits, pursuant to the provisions of 47 CFR 1.2105(a) and any Commission public notices. So determinations of mutual exclusivity for auction purposes can be made, applicants for non-table broadcast services or for ITFS must also submit the engineering data contained in the appropriate FCC form (FCC Form 301, FCC Form 346, FCC Form 349 or FCC Form 330). Beginning January 1, 1999, all short-form applications must be filed electronically.

(c) Applicants in all broadcast service or ITFS auctions will be subject to the provisions of § 1.2105(b) of this chapter regarding the modification and dismissal of their short-form applications. Notwithstanding the general applicability of § 1.2105(b) of this chapter to broadcast and ITFS auctions, the following applicants will be permitted to resolve their mutual exclusivities by making amendments to their engineering submissions following the filing of their short-form applications:

§ 73.5003

(1) Applicants for all broadcast services and ITFS who file major modification applications that are mutually exclusive with each other;

(2) Applicants for all broadcast services and ITFS who file major modification and new station applications that are mutually exclusive with each other; or

(3) Applicants for the secondary broadcast services and ITFS who file applications for new stations that are mutually exclusive with each other.

(d) The prohibition of collusion set forth in §1.2105(c) of this chapter, which becomes effective upon the filing of short-form applications, shall apply to all broadcast service or ITFS auctions. Notwithstanding the general applicability of §1.2105(c) of this chapter to broadcast and ITFS auctions, the following applicants will be permitted to resolve their mutual exclusivities by means of engineering solutions or settlements during a limited period after the filing of short-form applications, as further specified by Commission public notices:

(1) Applicants for all broadcast services and ITFS who file major modification applications that are mutually exclusive with each other;

(2) Applicants for all broadcast services and ITFS who file major modification and new station applications that are mutually exclusive with each other; or

(3) Applicants for the secondary broadcast services and ITFS who file applications for new stations that are mutually exclusive with each other.

[63 FR 48629, Sept. 11, 1998, as amended at 64 FR 24526, May 7, 1999]

§ 73.5003 Submission of upfront payments, down payments and full payments.

(a) To be eligible to bid, each bidder in every broadcast service or ITFS auction shall submit an upfront payment prior to the commencement of bidding, as set forth in any public notices and in accordance with 47 CFR 1.2106.

(b) Within ten (10) business days following the close of bidding and notification to the winning bidders, each winning bidder in every broadcast service or ITFS auction shall make a down payment in an amount sufficient to

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bring its total deposits up to twenty (20) percent of its high bid(s), as set forth in 47 CFR 1.2107(b).

(c) Each winning bidder in every broadcast service or ITFS auction shall pay the balance of its winning bid(s) in a lump sum within ten (10) business days after release of a public notice announcing that the Commission is prepared to award the construction permit(s) or license(s), as set forth in 47 CFR 1.2109(a). If a winning bidder fails to pay the balance of its winning bid in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five (5) percent of the amount due. Broadcast construction permits and ITFS licenses will be granted by the Commission following the receipt of full payment.

§ 73.5004 Bid withdrawal, default and disqualification.

(a) The Commission shall impose the bid withdrawal, default and disqualification payments set forth in 47 CFR 1.2104(g) upon bidders who withdraw high bids during the course, or after the close, of any broadcast service or ITFS auction, who default on payments due after an auction closes, or who are disqualified. 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 also be subject to the remedies set forth in 47 CFR 1.2109(d).

(b) In the event of a default by or the disqualification of a winning bidder in any broadcast service or ITFS auction, the Commission will follow the procedures set forth in 47 CFR 1.2109 (b)-(c) regarding the reauction of the construction permit(s) or license(s) at issue.

§ 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, FCC Form 349 or FCC Form