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a consortium of small businesses may use the bidding credit specified in §1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in §1.2110(f)(2)(iii) of this chapter.

[67 FR 11434, Mar. 14, 2002, as amended at 68 FR 42998, July 21, 2003]

Subpart C—Operational and Technical Requirements

OPERATIONAL REQUIREMENTS

§ 22.301 Station inspection.

Upon reasonable request, the licensee of any station authorized in the Public Mobile Services must make the station and station records available for inspection by authorized representatives of the Commission at any reasonable hour.

[59 FR 59955, Nov. 21, 1994]

§ 22.303 Retention of station authorizations; identifying transmitters.

The current authorization for each station, together with current administrative and technical information concerning modifications to facilities pursuant to §1.929 of this chapter, and added facilities pursuant to §22.165 must be retained as a permanent part of the station records. A clearly legible photocopy of the authorization must be available at each regularly attended control point of the station, or in lieu of this photocopy, licensees may instead make available at each regularly attended control point the address or location where the licensee's current authorization and other records may be found.

[70 FR 61058, Oct. 20, 2005]

§ 22.305 Operator and maintenance requirements.

FCC operator permits and licenses are not required to operate, repair or maintain equipment authorized in the Public Mobile Services. Station licensees are responsible for the proper operation and maintenance of their stations, and for compliance with FCC rules.

§ 22.307 Operation during emergency.

Licensees of stations in the Public Mobile services may, during a period of emergency in which normal communications facilities are disrupted as a result of hurricane, flood, earthquake or other natural disaster, civil unrest, widespread vandalism, national emergencies or emergencies declared by Executive Order of the President, use their stations to temporarily provide emergency communications services in a manner or configuration not normally allowed by this part, provided that such operations comply with the provisions of this section.

(a) *Technical limitations.* Public Mobile stations providing temporary emergency communications service must not transmit:

(1) On channels other than those authorized for normal operations.

(2) With power in excess of that authorized for normal operations;

(3) Emission types other than those authorized for normal operations.

(b) *Discontinuance.* Temporary emergency use of Public Mobile stations must be discontinued as soon as normal communication facilities are restored. The FCC may, at any time, order the discontinuance of any such emergency communication services.

§ 22.313 Station identification.

The licensee of each station in the Public Mobile Services must ensure that the transmissions of that station are identified in accordance with the requirements of this section.

(a) Station identification is not required for transmission by:

(1) Stations in the Cellular Radiotelephone Service;

(2) General aviation ground stations in the Air-ground Radiotelephone Service;

(3) [Reserved]

(4) Stations using Basic Exchange Telephone Radio Systems in the Rural Radiotelephone Service;

(5) [Reserved]

(6) Stations operating pursuant to paging geographic area authorizations.

(b) For all other stations in the Public Mobile Services, station identification must be transmitted each hour within five minutes of the hour, or

upon completion of the first transmission after the hour. Transmission of station identification may be temporarily delayed to avoid interrupting the continuity of any public communication in progress, provided that station identification is transmitted at the conclusion of that public communication.

(c) Station identification must be transmitted by telephony using the English language or by telegraphy using the international Morse code, and in a form that can be received using equipment appropriate for the modulation type employed, and understood without the use of unscrambling devices, except that, alternatively, station identification may be transmitted digitally, provided that the licensee provides the Commission with information sufficient to decode the digital transmission to ascertain the call sign. Station identification comprises transmission of the call sign assigned by the Commission to the station, however, the following may be used in lieu of the call sign.

(1) For transmission from subscriber operated transmitters, the telephone number or other designation assigned by the carrier, provided that a written record of such designations is maintained by the carrier;

(2) For general aviation airborne mobile stations in the Air-Ground Radiotelephone Service, the official FAA registration number of the aircraft;

(3) For stations in the Paging and Radiotelephone Service, a call sign assigned to another station within the same system.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59955, Nov. 21, 1994; 62 FR 11633, Mar. 12, 1997; 70 FR 19308, Apr. 13, 2005]

§ 22.317 Discontinuance of station operation.

If the operation of a Public Mobile Services station is permanently discontinued, the licensee shall send authorization for cancellation by electronic filing via the ULS on FCC Form 601. For purposes of this section, any station that has not provided service to subscribers for 90 continuous days is considered to have been permanently discontinued, unless the applicant notified the FCC otherwise prior to the end of the 90 day period and provided a date on which operation will resume, which date must not be in excess of 30 additional days.

[59 FR 59507, Nov. 17, 1994, as amended at 61 FR 54099, Oct. 17, 1996; 63 FR 68944, Dec. 14, 1998]

§ 22.321 Equal employment opportunities.

Public Mobile Services licensees shall afford equal opportunity in employment to all qualified persons, and personnel must not be discriminated against in employment because of sex, race, color, religion, or national origin.

(a) *Equal employment opportunity program.* Each licensee shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice.

(1) Under the terms of its program, each licensee shall:

(i) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(ii) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(iii) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion or national origin, and solicit their recruitment assistance on a continuing basis.

(iv) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensee's personnel policies and practices and working conditions.

(v) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to ensure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(2) The program must reasonably address specific concerns through policies and actions as set forth in this paragraph, to the extent that they are appropriate in consideration of licensee size, location and other factors.

(i) *To assure nondiscrimination in recruiting.* (A) Posting notices in the licensee's offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission (EEOC), the Federal Communications Commission (FCC), or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans, such notice should be posted in both Spanish and English.

(B) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion or national origin is prohibited, and that they may notify the EEOC, the FCC or other appropriate agency if they believe they have been discriminated against.

(C) Placing employment advertisements in media which have significant circulation among minority groups in the recruiting area.

(D) Recruiting through schools and colleges with significant minority group enrollments.

(E) Maintaining systematic contacts with minority and human relations organizations, leaders and spokespersons to encourage referral of qualified minority or female applicants.

(F) Encouraging present employees to refer minority or female applicants.

(G) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) *To assure nondiscrimination in selection and hiring.* (A) Instructing employees of the licensee who make hiring decisions that all applicants for all jobs are to be considered without discrimination.

(B) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(C) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iii) *To assure nondiscriminatory placement and promotion.* (A) Instructing employees of the licensee who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(B) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(C) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(D) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iv) *To assure nondiscrimination in other areas of employment practices.* (A) Examining rates of pay and fringe benefits for present employees with equivalent duties and adjusting any inequities found.

(B) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority groups or female employees.

(b) *EEO statement.* Each licensee having 16 or more full-time employees shall file with the FCC, no later than May 31st following the grant of that licensee's first Public Mobile Services authorization, a statement describing fully its current equal employment opportunity program, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religion or

national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff and termination. Any licensee having 16 or more full-time employees that changes its existing equal employment opportunity program shall file with the FCC, no later than May 31st thereafter, a revised statement reflecting the change(s).

NOTE TO PARAGRAPH (b) OF §22.321: Licensees having 16 or more full-time employees that were granted their first Public Mobile Services authorization prior to January 1, 1995, and do not have a current EEO statement on file with the FCC, must file such statement, required by paragraph (b) of this section, no later than May 31, 1995.

(c) *Report of complaints filed against licensees.* Each licensee, regardless of how many employees it has, shall submit an annual report to the FCC no later than May 31st of each year indicating whether any complaints regarding violations by the licensee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(1) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(2) Any licensee who has filed such information with the EEOC may file a notification of such filing with the FCC in lieu of a report.

(d) *Complaints of violations of Equal Employment Programs.* Complaints alleging employment discrimination against a common carrier licensee are considered by the FCC in the following manner:

(1) If a complaint raising an issue of discrimination is received against a licensee who is within the jurisdiction of the EEOC, it is submitted to that agency. The FCC maintains a liaison with that agency that keeps the FCC informed of the disposition of complaints filed against common carrier licensees.

(2) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the FCC to the respective State agency.

(3) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC or an appropriate State law, are accorded appropriate treatment by the FCC.

(4) The FCC will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees with the principles of equal employment as set forth herein.

(5) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee that is required to file an employment report to the FCC under §1.815(a) of this chapter are investigated by the FCC.

(e) *FCC records.* A copy of every annual employment report, equal employment opportunity program statement, reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the FCC.

(f) *Licensee records.* Each licensee required to file annual employment reports (pursuant to §1.815(a) of this chapter), equal employment opportunity program statements, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain for public inspection a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference. The documents must be retained for a period of 2 years.

§ 22.325 Control points.

Each station in the Public Mobile Services must have at least one control point and a person on duty who is responsible for station operation. This section does not require that the person on duty be at the control point or continuously monitor all transmissions of the station. However, the control point must have facilities that enable the person on duty to turn off the transmitters in the event of a malfunction.

TECHNICAL REQUIREMENTS

§ 22.351 Channel assignment policy.

The channels allocated for use in the Public Mobile Services are listed in the applicable subparts of this part. Channels and channel blocks are assigned in such a manner as to facilitate the rendition of service on an interference-free basis in each service area. Except as otherwise provided in this part, each channel or channel block is assigned exclusively to one licensee in each service area. All applicants for, and licensees of, stations in the Public Mobile Services shall cooperate in the selection and use of channels in order to minimize interference and obtain the most efficient use of the allocated spectrum.

[70 FR 19308, Apr. 13, 2005]

§ 22.352 Protection from interference.

Public Mobile Service stations operating in accordance with applicable FCC rules and the terms and conditions of their authorizations are normally considered to be non-interfering. If the FCC determines, however, that interference that significantly interrupts or degrades a radio service is being caused, it may, in accordance with the provisions of sections 303(f) and 316 of the Communications Act of 1934, as amended, (47 U.S.C. 303(f), 316), require modifications to any Public Mobile station as necessary to eliminate such interference.

(a) *Failure to operate as authorized.* Any licensee causing interference to the service of other stations by failing to operate its station in full accordance with its authorization and applicable FCC rules shall discontinue all transmissions, except those necessary for the immediate safety of life or property, until it can bring its station into full compliance with the authorization and rules.

(b) *Intermodulation interference.* Licensees should attempt to resolve such interference by technical means.

(c) *Situations in which no protection is afforded.* Except as provided elsewhere in this part, no protection from interference is afforded in the following situations:

(1) *Interference to base receivers from base or fixed transmitters.* Licensees should attempt to resolve such interference by technical means or operating arrangements.

(2) *Inteference to mobile receivers from mobile transmitters.* No protection is provided against mobile-to-mobile interference.

(3) *Interference to base receivers from mobile transmitters.* No protection is provided against mobile-to-base interference.

(4) *Interference to fixed stations.* Licensees should attempt to resolve such interference by technical means or operating arrangements.

(5) *Anomalous or infrequent propagation modes.* No protection is provided against interference caused by tropospheric and ionospheric propagation of signals.

(6) *Facilities for which the Commission is not notified.* No protection is provided against interference to the service of any additional or modified transmitter operating pursuant to §§ 1.929 or 22.165, unless and until the licensee modifies its authorization using FCC Form 601.

(7) *In-building radiation systems.* No protection is provided against interference to the service of in-building radiation systems (see § 22.383).

[59 FR 59507, Nov. 17, 1994, as amended at 62 FR 11633, Mar. 12, 1997; 63 FR 68944, Dec. 14, 1998; 70 FR 19308, Apr. 13, 2005]

§ 22.353 Blanketing interference.

Licensees of Public Mobile Services stations are responsible for resolving cases of blanketing interference in accordance with the provisions of this section.