



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[GN Docket Nos. 13-185, 25-70, 25-71; FCC 25-12; FR ID 283609]

Competitive Bidding Rules for Auction of AWS-3 Licenses

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks comment on changes to its rules regarding eligibility for designated entity bidding credits in auctions for licenses in the in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz (AWS-3) bands. The Commission also seeks comment on an update to its competitive bidding rules that would align this rule with the Small Business Act.

DATES: Comments are due on or before March 31, 2025; reply comments are due on or before April 14, 2025.

ADDRESSES: You may submit comments, identified by GN Docket Nos. 25-70, 25-71, and 13-185, by any of the following methods:

- Federal Communications Commission’s website: <https://www.fcc.gov/ecfs>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lyndsey Grunewald of the Office of Economics and Analytics, Auction Division, at (202) 418-0957 or Lyndsey.Grunewald@fcc.gov, or Yasiman Montgomery of the Office of Economics and Analytics, Auction Division, at (202) 418-0424 or Yasiman.Montgomery@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Notice of Proposed*

Rulemaking (NPRM) in GN Docket Nos. 25-70, 25-71, and 13-185, FCC 25-12, adopted on February 27, 2025, and released on February 28, 2025. The full text of this document is available for public inspection at the following internet address: <https://www.fcc.gov/document/fcc-proposes-updates-bidding-rules-aws-3-inventory-auction>

Comment Filing Procedures

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments should refer to GN Docket Nos. 25-70, 25-71, and 13-185. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing for each docket.
 - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service Express Mail. All filings must be addressed to the Secretary, Federal Communications Commission.
 - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format) send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

Ex Parte Rules. The proceeding the *NPRM* initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of the *NPRM* will be available on <https://www.fcc.gov/proposed-rulemakings>.

Synopsis

I. INTRODUCTION

1. In the Spectrum and Secure Technology and Innovation Act of 2024, Public Law 118-159, Congress directed the Commission to initiate a system of competitive bidding to grant licenses for spectrum in its inventory in the AWS-3 spectrum bands. Auction proceeds will support the Commission’s Supply Chain Reimbursement Program, which implements the Secure and Trusted

Communications Networks Act of 2019 by reimbursing eligible advanced communications service providers for their costs to remove, replace, and dispose of untrustworthy Huawei Technologies Company or ZTE Corporation equipment and services.

2. In the *NPRM*, the Commission takes the first step towards an effective auction by proposing to harmonize outdated rules related to competitive bidding for such licenses with more recent Commission practice in spectrum auctions. The Commission also proposes to update its general part 1 competitive bidding rules to reflect statutory requirements regarding the categorization of an entity as a small business concern.

3. For roughly 30 years, the Commission effectively and efficiently used auctions to assign spectrum licenses to those who value them most highly, and in doing so served the public interest goals of encouraging innovation and promoting competition in wireless services. The Commission's actions today advance those same goals while fulfilling Congress's recent mandate with respect to AWS-3 spectrum.

II. BACKGROUND

4. The term AWS-3 is used by the Commission to refer to spectrum in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands. In 2014, the Commission assigned licenses for spectrum in the AWS-3 bands through competitive bidding in Auction 97. Nevertheless, there remains spectrum in these bands that is not currently licensed, due to various circumstances, including the selective defaults by two winning bidders on their bids for a significant number of licenses. Pursuant to congressional mandate, the Commission will now offer licenses for such unassigned AWS-3 spectrum in a new auction.

5. Prior to Auction 97, the Commission adopted service-specific rules for licenses within those bands, which specified that such licenses would be subject to competitive bidding and that the competitive bidding procedures contained in part 1 of the Commission's rules would apply, unless otherwise specified. The Commission also adopted AWS-3-specific rules related to the treatment of entities designated by Congress in section 309(j)(3) and (4) of the Communications Act of 1934, as Amended to be given opportunities to participate in spectrum-based services (designated entities or DEs), including eligibility standards for small and very small business bidding credits.

6. Since then, two significant regulatory and legislative developments have left the AWS-3 competitive bidding rules out of step with current Commission practice for spectrum auctions. First,

when the Commission updated its part 1 competitive bidding rules in 2015, it amended the eligibility requirements for small business bidding credits, adopted a 15% bidding credit for rural service providers, and established a process to implement a reasonable cap on the total amount of bidding credits that an eligible small business or rural service provider may be awarded in any auction. Second, in 2018, Congress amended the Small Business Act to prohibit an agency from prescribing a size standard for categorizing a business concern that provides services as a small business concern based on its annual average gross revenues unless the proposed size standard is based on the average over no less than a five-year period.

7. The AWS-3 competitive bidding rules have not been updated to reflect these developments, and the general part 1 bidding rules have not been updated to reflect the changes to the Small Business Act. The Commission therefore proposes to do so now.

III. UPDATING THE DESIGNATED ENTITY RULES FOR THE AWS-3 SPECTRUM BANDS

8. Section 309(j)(4)(D) of the Communications Act instructs the Commission to ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of bidding preferences. Since 1994, the Commission has offered these designated entities bidding credits, which provide a percentage discount on winning bids, to facilitate their participation in auctions of spectrum licenses. The Commission sets out the general framework for DE bidding credits in its part 1 competitive bidding rules and separately adopts rules in particular services that define designated entity eligibility and bidding credit amounts for each service, taking into account the capital requirements and other characteristics of each particular service.

9. Under the existing framework for competitive bidding for licenses in the AWS-3 spectrum bands, a winning bidder for AWS-3 licenses is eligible for a small business bidding credit if that entity, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$40 million for the preceding three years. A winning bidder for AWS-3 licenses is eligible for a very small business bidding credit if that entity, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues

not exceeding \$15 million for the preceding three years.

10. In light of the congressional mandate to initiate a system of competitive bidding to grant licenses for spectrum in its inventory in the AWS-3 spectrum bands, the Commission proposes to harmonize the AWS-3 DE rules with both the updated part 1 rules for designated entities and the Small Business Act's new five-year average gross receipts benchmark. Specifically, the Commission proposes to define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$55 million for the preceding five years; and to amend the AWS-3 definition of a very small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$20 million for the preceding five years. Moreover, in accordance with the schedule of DE bidding credits set forth in part 1, the Commission proposes that a qualifying small business would be eligible for a bidding credit of 15% and a qualifying very small business would be eligible for a bidding credit of 25%. The Commission also proposes to create a separate 15% bidding credit for rural service providers. For auctions of AWS-3 licenses, consistent with the part 1 rules, a cap would be established on an auction-by-auction basis on the total discount that a winning bidder eligible for a small business bidding credit or rural service provider bidding credit may receive.

A. Harmonizing Average Gross Revenue Thresholds for Small Business Bidding Credits with the Part 1 Rules

11. In 2015, the Commission updated the part 1 gross revenue thresholds for small business bidding credit eligibility. Specifically, the Commission amended 47 CFR 1.2110(f) to increase the three tiers of gross revenue thresholds defining eligibility for each small business bidding credit as follows:

- Businesses with average annual gross revenues for the preceding three years not exceeding \$4 million would be eligible for a 35% bidding credit;
- Businesses with average annual gross revenues for the preceding three years not exceeding \$20 million would be eligible for a 25% bidding credit; and
- Businesses with average annual gross revenues for the preceding three years not exceeding \$55 million would be eligible for a 15% bidding credit.

12. When the Commission adopted the revenue thresholds and associated bidding credits for

the generally applicable schedule of small business bidding credits in part 1, its intent was to encourage small business participation in spectrum license auctions, and to ensure that its gross revenue definitions accurately reflect what constitutes a small business in today's marketplace, taking into consideration the relative size of the large, national providers. Beginning in 2015, with the adoption of competitive bidding rules for licenses in the 600 MHz band in Auction 1002, the Commission consistently has used only the two largest designated entity business size standards and associated bidding credits outlined in its part 1 rules when adopting service specific rules for competitive bidding for spectrum licenses. This approach has facilitated the successful participation of many eligible small businesses in Commission auctions over the last decade. The Commission expects that entities seeking to participate in the auction of licenses in the AWS-3 bands may face challenges similar to those utilizing the spectrum in other 5G-ready services that have been auctioned more recently, including issues and costs related to developing markets, technologies, and services. The Commission therefore proposes to adopt for the AWS-3 service rules the small business definitions for the two higher gross revenues thresholds of \$55 million and \$20 million that are in its standardized part 1 schedule for small business bidding credits.

13. The Commission seeks comment on whether the characteristics of services that utilize spectrum in the AWS-3 bands and their individual licensing models suggest that it should adopt the small business size standards and associated bidding credits proposed in the *NPRM*. Commenters addressing this proposal or advocating for any alternative should explain why licenses in the AWS-3 bands should be treated similarly or differently than licenses for spectrum for other 5G-ready services, and are strongly encouraged to provide specific, data-driven arguments in support of their proposals.

B. Implementing Small Business Act Benchmarks for Categorizing a Business as a Small Business Concern Based on Average Annual Gross Revenues

14. The standardized schedule of bidding credits provided in the AWS-3 competitive bidding rules defines small and very small businesses based on average gross revenues for the preceding three years. In December 2018, Congress amended the Small Business Act with respect to how an agency such as the Commission may prescribe size standards for categorizing a business concern as a small business concern. In relevant part, Congress required that Federal agencies that categorize business concerns that provide services as a small business concern based on annual average gross receipts may only do so if the

agency considers such receipts over a period of not less than five years. All service-specific small business definitions the Commission has adopted for bidding credit eligibility since 2020 contain the congressionally mandated five-year lookback period, but the Commission has not yet amended any of its prior-existing rules to conform with the Small Business Act's standards. Therefore, in preparing to auction the licenses for AWS-3 spectrum in its inventory, the Commission proposes to amend the AWS-3 competitive bidding rules to reflect the same five-year benchmark mandated by the Small Business Act, and the Commission seeks comment on this proposal.

C. Rural Service Provider Bidding Credit in the AWS-3 Spectrum Bands

15. In the *Updating Part 1 Report and Order*, 80 FR 56764 (Sept. 18, 2015), the Commission created a 15% bidding credit for eligible rural service providers. In making this bidding credit available for the first time, the Commission concluded that, in furtherance of statutory objectives of section 309(j)(3)(A-B) of the Act, the rural service provider bidding credit would allow a diversity of service providers to compete more effectively for spectrum licenses in rural areas. Consistent with the findings in the *Updating Part 1 Report and Order* and its approach in other bands where the spectrum is likely to be used to provide 5G services, in any future auction of licenses in the AWS-3 bands, the Commission proposes to offer a rural service provider, as defined in 47 CFR 1.2110(f)(4)(i), that has not claimed a small business bidding credit, a 15% bidding credit. The Commission seeks comment on this proposal.

16. Commenters addressing this proposal or advocating for any alternative should consider whether there are any particular characteristics of licenses in the AWS-3 bands that may affect whether rural service providers will apply for a bidding credit.

IV. UPDATING THE BENCHMARK FOR DETERMINING A SMALL BUSINESS'S AVERAGE GROSS REVENUES UNDER THE PART 1 RULES

17. As noted, all service-specific competitive bidding rules that the Commission has adopted since the Small Business Act was amended in 2018 have incorporated a five-year average gross receipts benchmark for determining eligibility for small business bidding credits. Nonetheless, the part 1 competitive bidding rules still reflect the three-year benchmark adopted by the Commission in 2015. To ensure continued consistency with the requirements of the Small Business Act in spectrum bands that may be subject to competitive bidding in the future, the Commission proposes to codify these

requirements in its part 1 competitive bidding rules such that eligibility for small business bidding credits would be based on an entity's average gross revenues for the preceding five years. The Commission seeks comment on this proposal.

V. TRIBAL LICENSING WINDOW

18. In 2019, the Commission adopted a pre-auction Tribal licensing window in the 2.5 GHz band to give Tribal nations an opportunity to obtain licenses for unassigned spectrum over Tribal lands in rural areas. The Commission seek comment on the possibility of a similar Tribal licensing window for any relevant portions of the limited number of inventory AWS-3 licenses expected to be made available for auction in this proceeding.

19. The Spectrum and Secure Technology and Innovation Act, Public Law 118-159, provides that the Commission shall initiate systems of competitive bidding to grant licenses for spectrum in the inventory of the Commission in the AWS-3 bands. The Act also directs proceeds from the auction to support, among other things, the Commission's Supply Chain Reimbursement Program. Does the statutory directive to employ competitive bidding for these licenses permit a Tribal licensing window like the one in the 2.5 GHz band prior to an auction of the AWS-3 licenses?

20. The Commission seeks comment on the putative benefits of a Tribal licensing window, to the extent it is allowed by law. For example, do the AWS-3 licenses for the spectrum in the Commission's inventory provide sufficient bandwidth to give Tribal entities an opportunity to provide broadband wireless service? Does the presence of Federal operations and the requirement to coordinate with such operations affect the suitability of this spectrum for a Tribal licensing window? For example, similar to the approach in the 2.5 GHz band, should the Commission offer AWS-3 licenses with overlay rights covering geographic license areas in which a license is granted through a Tribal licensing window in order to avoid irregular gaps between spectrum areas? Should the Commission adopt eligibility criteria that are similar to that used in the 2.5 GHz Tribal licensing window, such as limiting eligible entities to federally recognized Tribes, entities owned and controlled by such Tribes, or consortia of such Tribes? If the Commission does not adopt the same or similar eligibility criteria to that used for the 2.5 GHz Tribal Window, what alternative criteria should the Commission use? The Commission seeks comment on

whether rule changes to the AWS-3 service rules would be necessary to implement these or other frameworks.

21. The Commission also seeks general comment on the potential impact of a Tribal licensing window on the auction of AWS-3 licenses. For example, how might any necessary rule changes affect the auction's timing? Should the Commission utilize the same procedures for an AWS-3 Tribal licensing window as those used in the 2.5 GHz window?

VI. PROCEDURAL MATTERS

22. *Paperwork Reduction Act Analysis.* The *NPRM* seeks comment on proposed rules that may result in new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the information collection requirements contained in the *NPRM*, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

23. *Initial Regulatory Flexibility Analysis.* The policies and rules proposed in the *NPRM* may have a significant economic impact on a substantial number of small entities. Therefore, as required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the *NPRM*. The IRFA is set forth in Appendix B to the *NPRM*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the *Federal Register*.

24. The *NPRM* initiates a proceeding to update the designated entity rules for the AWS-3 spectrum bands in order to enable the Commission to offer through competitive bidding, and in the near future, licenses for spectrum within those bands that is currently in the Commission's inventory. Together these proposals will further the Commission's goal to facilitate the use of fallow spectrum and

the deployment of fifth generation wireless (5G) services by efficiently bringing to auction licenses covering spectrum that is likely to be used to provide 5G services. The Commission also seeks comment on the possibility of a pre-auction Tribal licensing window for any relevant portions of inventory AWS-3 licenses expected to be made available for auction and on the putative benefits of such a window.

25. Specifically, the *NPRM* proposes to:

- Provide small businesses and rural service providers with greater opportunity to participate in the provision of 5G service by aligning the Commission's outdated, service-specific eligibility requirements for AWS-3 with current practice;
- Modify the part 1 size definitions for small business bidding credits so that the length of time over which revenues are averaged for determining bidding credit eligibility is five years, in conformance with the Small Business Act.

26. The proposed action is authorized pursuant to 47 U.S.C. 151, 154(i), 301, 303(r), 304, and 309(j).

27. The RFA directs agencies to provide a description of, and where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term small entity as having the same meaning as the terms small business, small organization, and small governmental jurisdiction. In addition, the term small business has the same meaning as the term small business concern under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Act.

28. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

29. Next, the type of small entity described as a small organization is generally any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

30. Finally, the small entity described as a small governmental jurisdiction is defined generally as governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of small governmental jurisdictions.

31. *Licenses Assigned by Auctions.* The Commission's small business size standards with respect to licenses assigned by auction involve eligibility for bidding credits and installment payments in the auction of licenses for various wireless frequencies. In the auction of these licenses, the Commission may define and adopt criteria for different classes of small businesses – very small, small or entrepreneur. The criteria for these small business classes may be statutorily defined in the Commission's rules or may require consultation with the U.S. Small Business Administration, Office of Size Standards. For licenses subject to auction, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. In addition, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

32. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide

communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The Small Business Act size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the Small Business Act's small business size standard, most of these providers can be considered small entities.

33. *Advanced Wireless Services (AWS)*. Spectrum is made available and licensed in these bands for the provision of various wireless communications services. Wireless Telecommunications Carriers (except Satellite) is the closest industry with a Small Business Act small business size standard applicable to these services. The Small Business Act small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the Small Business Act size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

34. According to Commission data as of December 2021, there were approximately 4,472 active AWS licenses. The Commission's small business size standards with respect to AWS involve eligibility for bidding credits in the auction of licenses for these services. For the auction of AWS licenses, the Commission previously has defined a small business as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, and a very small business as an entity with average annual gross revenues for the preceding three years not exceeding \$15 million. Pursuant to these definitions, 57 winning bidders claiming status as small or very small businesses won 215 of 1,087 licenses. In the most recent auction of AWS licenses 15 of 37 bidders qualifying for status as small or very small businesses won licenses.

35. In frequency bands where licenses were subject to auction, the Commission notes that as

a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time the Commission is not able to estimate the number of licensees with active licenses that would qualify as small under the Small Business Act's small business size standard.

36. *Satellite Telecommunications.* This industry comprises firms primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications. Satellite telecommunications service providers include satellite and earth station operators. The Small Business Act small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently, using the Small Business Act's small business size standard, a little more than two-thirds of these providers can be considered small entities.

37. The Commission expects that the rules proposed in the *NPRM* will impose new and/or additional reporting or recordkeeping and/or other compliance obligations on small entities as well as other applicants and licensees, if adopted. The Commission believes that these rules assist the Commission in meeting its statutory goals by facilitating the auction, and subsequent use, of unassigned spectrum. The Commission does not believe that the costs and/or administrative burdens associated with the rules will unduly burden small entities. The Commission notes that several of the proposed rule changes modify requirements that were adopted prior to the last major update to the Commission's competitive bidding rules in 2015 in order to bring them in line with the policies and procedures that have

been used in auctions of 5G-ready services since 2015. Therefore, small entities that have participated in Commission auctions since 2015 may already be familiar with such policies and requirements and have the processes and procedures in place to facilitate compliance resulting in minimal incremental costs to comply with the proposals in the *NPRM*.

38. Typically, the auction procedures inform prospective applicants that they should familiarize themselves with the Commission's general competitive bidding rules, Commission decisions regarding competitive bidding procedures, application requirements, obligations of Commission licensees, construction permit holders, and support recipients, and the Commission's service rules for the frequency band available in the auction or for construction permits or universal service support, and that they must be thoroughly familiar with the procedures, terms, and conditions contained in the public notice adopting procedures for the auction. The Commission therefore does not expect that the amended definitions proposed in the *NPRM* will increase the need for small entities to hire attorneys, engineers, consultants, or other professionals because it does not increase the level of education or due diligence beyond what was required of applicants under the previous competitive bidding rules for the AWS-3 spectrum bands.

39. The *NPRM* proposes a number of rule changes that will affect reporting, recordkeeping, and other compliance requirements. Each of these changes is described in the IRFA. The *NPRM* also seeks comment on the possibility of a pre-auction Tribal licensing window for any relevant portions of inventory AWS-3 licenses expected to be made available for auction.

40. In the *NPRM*, the Commission proposes to amend the Commission's rules related to designated entities eligible for bidding credits for licenses subject to auction in the AWS-3 bands. The Commission proposes to use the same revenue thresholds that the Commission has used in recent years to determine eligibility for small and very small business bidding credits, which are provided for in the Commission's part 1 standardized schedule of bidding credits. The Commission proposes to amend the AWS-3 bidding credit eligibility criteria to align with the Small Business Act's requirement that Federal agencies that categorize business concerns that provide services as a small business concern based on annual average gross receipts only do so if the agency considers such receipts over a period of not less than five years. Specifically, the Commission proposes a requirement for an entity to have average gross

revenues for the preceding five years not exceeding \$55 million to be a small business, and such an entity would be eligible for a bidding credit of 15%. To be classified as a very small business an entity would be required to have average gross revenues for the preceding five years not exceeding \$20 million and would be eligible for a bidding credit of 25%. The Commission also proposes to offer a rural service bidding credit.

41. In addition, the Commission proposes to modify the Commission's general part 1 competitive bidding rules to incorporate the five-year average gross receipts benchmark for the purpose of determining which entities qualify for small business bidding credits for consistency with the Small Business Act.

42. The RFA requires an agency to describe and discuss any significant alternatives to its proposed approach that would minimize economic impacts to small entities while allowing the agency to achieve its regulatory objectives. Such alternatives may include: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof for small entities.

43. The proposals in the *NPRM* would update the competitive bidding rules for the AWS-3 spectrum bands to align with current practices. Because the proposed rules are similar to the designated entity rules that have been used in recent auctions of wireless, 5G-ready spectrum, many small businesses will already be familiar with these requirements. This could lessen the compliance costs for small entities who have participated in any wireless spectrum auction since 2015. The Commission seeks comment on whether any other approach would minimize compliance costs for small entities wishing to participate in this auction.

44. *Competitive Bidding and Bidding Credits for Small Entities.* The Commission administers bidding credit programs to promote small business service provider participation in auctions and in the provision of spectrum-based services. Based on the Commission's analysis of past auction data, the relative costs of participation are lowered for small businesses that take full advantage of the bidding credit programs. The current designated entity rules for auctions of licenses in AWS-3 spectrum

bands were adopted prior to the last major update to the part 1 competitive bidding rules in 2015. Thus, as mentioned in the prior section, the Commission has proposed to modify these designated entity rules so that they conform with the designated entity rules set forth in part 1, subpart Q, of the Commission's rules and are consistent with recent auctions. Specifically, the Commission proposes to modify the designated entity rules for these services to apply the current part 1 definition of a qualifying small business and a very small business and apply the bidding credits for these two categories, and for rural service providers. The Commission also proposes to modify the part 1 size definitions for small business bidding credits so that the amount of time over which revenues are averaged for determining bidding credit eligibility is five years, in conformance with the Small Business Act.

45. The Commission provides resources and educational materials to assist all auction participants, including small entities, with understanding the requirements of auction participation, including applying for bidding credits. Small entities and other auction participants may seek clarification of, or guidance regarding, auction procedures, the competitive bidding rules, and any requirements related to the authorizations or support to be made available through the auction from Commission staff prior to each auction's application window. Additionally, an FCC Auctions Hotline provides small entities one-on-one access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource that provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic short-form application (FCC Form 175) and use of the bidding system. The Commission seeks comment on additional means to assist small entities with participation in spectrum auctions.

46. No Federal rules duplicate, overlap, or conflict with the proposed rules.

VII. ORDERING CLAUSES

48. IT IS ORDERED, pursuant to the authority found in sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, and 309(j); the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, H.R.5009, 118th Cong. Div. D, Title LIV, section 5403; and § 1.411 of the Commission's Rules, 47 CFR 1.411, that the Notice of Proposed Rulemaking IS HEREBY ADOPTED.

49. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL

SEND a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 27

Administrative practice and procedure, Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 27 to read as follows:

PART 1- PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

AUTHORITY: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

2. Amend § 1.2110 by revising paragraphs (b)(1)(i) and (f)(2)(i) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) * * *

(1) * * *

(i) The gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of its controlling interests shall be attributed to the applicant (or licensee) and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules in this chapter. An applicant seeking status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules in this chapter, must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues for each of the previous five years of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of its controlling interests.

* * * * *

(f) ***

(2) * * *

(i) *Size of bidding credits.* A winning bidder that qualifies as a small business, and has not claimed a rural service provider bidding credit pursuant to paragraph (f)(4) of this section, may use the following bidding credits corresponding to its respective average gross revenues for the preceding 5 years:

(A) Businesses with average gross revenues for the preceding 5 years not exceeding \$4 million are eligible for bidding credits of 35 percent;

(B) Businesses with average gross revenues for the preceding 5 years not exceeding \$20 million are eligible for bidding credits of 25 percent; and

(C) Businesses with average gross revenues for the preceding 5 years not exceeding \$55 million are eligible for bidding credits of 15 percent.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

3. The authority citation for part 27 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

4. Amend § 27.1106 by revising paragraphs (a) and (b) and adding paragraph (c) to read as

follows:

§ 27.1106 Designated Entities in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands.

* * * * *

(a) *Small business.* (1) A small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$55 million for the preceding five (5) years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$20 million for the preceding five (5) years.

(b) *Bidding credits.* A winning bidder that qualifies as a small business as defined in this section or a consortium of small businesses may use the bidding credit specified in §1.2110(f)(2)(i)(C) of this chapter, subject to the cap specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business as defined in this section or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i)(B) of this chapter, subject to the cap specified in § 1.2110(f)(2)(ii) of this chapter.

(c) *Rural service provider bidding credit.* A rural service provider, as defined in § 1.2110(f)(4) of this chapter, which has not claimed a small business bidding credit may use a bidding credit of 15 percent as specified in § 1.2110(f)(4)(i) of this chapter, subject to the cap specified in § 1.2110(f)(4)(ii) of this chapter.