

definition of a small business. MDS also includes licensees of stations authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating \$12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under \$10 million and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, the FCC estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, the FCC tentatively concludes that at least 1,932 licensees are small businesses.

18. In connection with the 1996 MDS auction, the FCC defined "small business" as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years. The FCC established this small business definition in the context of this particular service and with the approval of SBA. The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. At this time, the FCC estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the FCC finds that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA or the FCC's rules. Some of those 440 small business licensees may be affected by the proposals in this *NPRM*.

19. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services that includes all such companies generating \$11 million or less in annual receipts. This definition includes multipoint

distribution systems, and thus applies to MDS licensees and wireless cable operators that did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of \$11 million annually. Therefore, for purposes of this IRFA, the FCC finds that there are approximately 892 small MDS providers as defined by the SBA and the FCC's auction rules, and some of these providers may take advantage of the FCC's amended rules to provide two-way MDS.

20. There are presently 2032 ITFS licensees. All but 100 of these licenses are held by educational institutions (these 100 fall in the MDS category, above). Educational institutions may be included in the definition of a small entity. ITFS is a non-profit non-broadcast service that, depending on SBA categorization, has, as small entities, entities generating either \$10.5 million or less, or \$11.0 million or less, in annual receipts. However, the FCC does not collect, nor is the FCC aware of other collections of, annual revenue data for ITFS licensees. Thus, the FCC finds that up to 1932 of these educational institutions are small entities that may take advantage of the FCC's amended rules to provide additional flexibility to ITFS.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

21. As noted previously, applicants for MDS or ITFS licenses would be required to apply through the Universal Licensing System using FCC Form 601, and other appropriate forms. Licensees will also be required to apply for an individual station license by filing FCC Form 601 for those individual stations that (1) require submission of an Environmental Assessment of the facilities under § 1.1307 of the FCC's rules; (2) require international coordination of the application; or (3) require coordination with the Frequency Assignment Subcommittee (FAS) of the Interdepartment Radio Advisory Committee (IRAC). While these requirements are new with respect to potential licensees in the ITFS and MDS bands, the FCC has applied these requirements to licensees in other bands. Moreover, the FCC is also proposing to eliminate many burdensome filing requirements that have previously been applied to MDS and ITFS.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

22. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: "(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 or reporting requirements under the rule for such 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."

23. In this *NPRM*, the FCC seeks comment on a number of proposals and alternatives regarding the use of the 2500–2690 MHz band. This *NPRM* seeks to adopt rules that will reduce regulatory burdens, promote innovative services and encourage flexible use of this spectrum. It opens up economic opportunities to a variety of spectrum users, including small businesses. The FCC considers various proposals and alternatives partly because the FCC seeks to minimize, to the extent possible, the economic impact on small businesses.

24. The FCC has reduced the burdens wherever possible. To minimize any further negative impact, however, the FCC proposes certain exclusive incentives for small entities that will redound to their benefit. The FCC proposes the use of bidding credits for small entities that participate in auctions of licenses that are conducted pursuant to the rules proposed in this *NPRM*. The FCC proposes to define a "small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, a "very small business" as an entity with average gross revenues for the preceding three years not exceeding \$15 million, and an "entrepreneur" as an entity with average annual gross revenues for the preceding three years not exceeding \$3 million. The FCC proposes that entities qualifying as small businesses will receive a 15% bidding credit, that entities qualifying as very small businesses will receive a 25% bidding credit, and that entities qualifying as entrepreneurs will receive a 35% bidding credit. Qualifying small businesses, very small businesses, and entrepreneurs can reduce their winning bids by the amount of their bidding credits. The FCC believes that these bidding credits will help small entities