

auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 met the definition of a small business, but only 42 remain small businesses.

33. *Local Multipoint Distribution Service.* The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998, and closed on March 25, 1998. The Commission defined "small entity" for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.⁷⁴ An additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.⁷⁵ These regulations defining "small entity" in the context of LMDS auctions have been approved by the SBA.⁷⁶ There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 small business winning bidders. Based on this information, we conclude that the number of small LMDS licenses includes the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

34. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 178 entities winning licenses for 594 Metropolitan Statistical Areas (MSAs). Of the 594 licenses, 557 were won by 178 entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a \$6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$2 million in annual profits each year for the previous two years.⁷⁷ In the 218–

219 MHz Report and Order and Memorandum Opinion and Order, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed \$15 million for the preceding three years.⁷⁸ A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed \$3 million for the preceding three years.⁷⁹ We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the prevalence of small businesses in the subscription television services and message communications industries, we assume for purposes of this IRFA that in future auctions, all of the licenses may be awarded to small businesses by these revised rules.

35. *24 GHz Service.* The rules that we adopt could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission did not develop a definition of small entities applicable to existing licensees in the 24 GHz band. We believe that there are only two licensees in the 24 GHz band.

36. *Location and Monitoring Service (LMS).* Multilateration LMS systems use non-voice radio techniques to determine the location and status of mobile radio units. For purposes of auctioning LMS licenses, the Commission has defined "small business" as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not to exceed \$15 million.⁸⁰ A "very small business" is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years

not to exceed \$3 million.⁸¹ These definitions have been approved by the SBA.⁸² An auction for LMS licenses commenced on February 23, 1999 and closed on March 5, 1999. Of the 528 licenses auctioned, 289 licenses were sold to four small businesses. We conclude that the number of LMS licensees affected by this NPRM includes these four entities. We cannot accurately predict the number of remaining licenses that could be awarded to small entities in future LMS auctions.

Media Services (Broadcast & Cable)

37. *Commercial Television Services.* The SBA defines a television broadcasting station that has no more than \$12.0 million in annual receipts as a small business.⁸³ Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.⁸⁴ Included in this industry are commercial, religious, educational, and other television stations.⁸⁵ Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.⁸⁶

38. There were 1,695 full-service television stations operating in the United States as of December 2001.⁸⁷ According to Census Bureau data for 1997, there were 906 Television Broadcasting firms, total, that operated for the entire year.⁸⁸ Of this total, 734 firms had annual receipts of \$9,999,999.00 or less and an additional 71 had receipts of \$10 million to \$24,999,999.00.⁸⁹ Thus, under this

⁸¹ *Id.*

⁸² See Letter to Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Feb. 22, 1999).

⁸³ 13 CFR 121.201, North American Industry Classification System (NAICS) code 515120.

⁸⁴ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1, Appendix A–9 (1995).

⁸⁵ *Id.*; see Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual*, at 13 CFR 121.201, North American Industry Classification System (NAICS) code 515120.

⁸⁶ 1992 Census, Series UC92–S–1, at Appendix A–9.

⁸⁷ FCC News Release, Broadcast Station Totals as of December 31, 2001 (released May 21, 2002).

⁸⁸ 13 CFR 121.201, North American Industry Classification System (NAICS) code 515120.

⁸⁹ *Id.* The census data do not provide a more precise estimate.

Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of section 309(j) of the Communications Act—Competitive Bidding, MM Docket No. 94–131 and PP Docket No. 93–253, Report and Order, 10 FCC Rcd 9589 (1995).

⁷⁴ See Local Multipoint Distribution Service, Second Report and Order, 62 FR 23148, April 29, 1997.

⁷⁵ *Id.*

⁷⁶ See Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

⁷⁷ Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP WT Docket No. 93–253, Fourth Report and Order, 59 FR 24947, May 13, 1994.

⁷⁸ In the Matter of Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 98–169, Report and Order and Memorandum Opinion and Order, 64 FR 59656, November 3, 1999.

⁷⁹ Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, Report and Order and Memorandum Opinion and Order, 64 FR 59656, November 3, 1999.

⁸⁰ Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, Second Report and Order, 13 FCC Rcd 15182 paragraph 20 (1998); see also 47 CFR 90.1103.