



Federal Communications Commission
Washington, D.C. 20554

DA 02-1993
August 9, 2002

Via certified mail, return receipt requested

Mr. Charles M. Austin
Preferred Acquisitions, Inc.
5605 North MacArthur Blvd.
Tenth Floor
Irving, TX 75038

Re: Final Bid Withdrawal Payment For Auction No. 34

Dear Mr. Austin:

Preferred Acquisitions, Inc. ("Preferred"), a participant in Auction No. 34, withdrew high bids on six licenses in that auction.¹ Auction No. 43, the subsequent auction for the licenses on which Preferred withdrew high bids in Auction No. 34, has closed.² Therefore, in accordance with the Commission's rules, we are now able to calculate Preferred's final bid withdrawal obligations.

Under the Commission's Rules, a bidder that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.³ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁴ This payment amount is deducted from any up-front payments or down payments deposited for

¹ 800 MHz Specialized Mobile Radio (SMR) Service General Category (851-854 MHz) and Upper Band (861-865 MHz) Auction Closes: Winning Bidders Announced, Report No. AUC-34-G (Auction No. 34), *Public Notice*, 15 FCC Rcd 17162 (2000) ("*Auction No. 34 Winning Bidders Public Notice*"). Preferred withdrew high bids on licenses BEA009-D, BEA018-F, BEA020-F, BEA066-D, BEA069-E, BEA069-FF. *Id.* at Attachment C.

² Multi-Radio Service Auction Closes: Winning Bidders Announced, Report No. AUC-02-43-F (Auction No. 43), *Public Notice*, DA 02-157 (rel. January 22, 2002) ("*Auction No. 43 Winning Bidders Public Notice*").

³ 47 C.F.R. § 1.2104(g)(1) (2000).

⁴ 47 C.F.R. § 1.2104(g)(1); *see Auction No. 34 Winning Bidders' Public Notice*, 15 FCC Rcd at 17165 and Attachment C (identifies bidders that withdrew a high bid in Auction No. 34 and lists the corresponding three percent interim bid withdrawal payments).

this bidder's account with the Commission.⁵ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and upon appropriate request, the Commission will refund the interim three percent (3%) payment.⁶ If in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn bid amount, then the bidder will be required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.⁷

With respect to Preferred's withdrawal of six high bids in Auction No. 34, the Commission has previously deducted interim bid withdrawal payments totalling \$23,401.00 from the funds on deposit with the Commission.⁸ Because all six licenses were auctioned in Auction No. 43, the Commission is able to assess the full amount of the final withdrawal payment for each license. For two out of the six licenses, BEA009-D and BEA018-F, a final withdrawal payment is due because the winning bid amount in Auction No. 43, the subsequent auction of those licenses, is less than Preferred's withdrawn bid amount.⁹ With respect to the remaining four licenses, BEA020-F, BEA066-D, BEA069-E, BEA069-FF, no final bid withdrawal payment is assessed because the subsequent winning bid in Auction No. 43 was greater than Preferred's withdrawn bid amount.¹⁰ The cumulative sum of those final bid withdrawal payments is \$178,450 as shown below and in Attachment A to this letter.¹¹

State College, PA	BEA009-D	\$ 130,700.00
Greensboro-Winston-Salem-High	BEA018-F	\$ 47,750.00
Norfolk-Virginia Beach-Newport	BEA020-F	\$ 0.00
Fort Wayne, In	BEA066-D	\$ 0.00
Evansville-Henderson, IN-KY-IL	BEA069-E	\$ 0.00
Evansville-Henderson, IN-KY-IL	BEA069-FF	\$ 0.00
Total		\$ 178,450.00

Because the six licenses were unsold at the end of Auction No. 34, interim bid withdrawal payments equal to three percent (3%) of the net amount of the withdrawn bids were deducted

⁵ 47 C.F.R. § 1.2106(e) (2000); *see Auction No. 34 Winning Bidders' Public Notice*, 15 FCC Rcd at 17165.

⁶ 47 C.F.R. § 1.2104(g)(1).

⁷ *Id.*

⁸ *See Auction No. 34 Winning Bidders' Public Notice*, 15 FCC Rcd at Attachment C, 17222-23 (Attachment C lists each of the six licenses and their corresponding interim bid withdrawal payments based on three percent (3%) of the withdrawn bid amount).

⁹ 47 C.F.R. § 1.2104(g)(1) and Attachment A to this Letter. Because Preferred did not apply for a bidding credit in Auction No. 34, the final bid withdrawal payment is the difference between the gross winning bids. *See Preferred's Form 175 Application submitted for participation in Auction No. 34.*

¹⁰ 47 C.F.R. § 1.2104(g)(1) and Attachment A to this Letter.

¹¹ Attachment A calculates the final bid withdrawal payments for each of the licenses; *see also Auction No. 43 Winning Bidders Public Notice*, DA 02-157, at Attachment D (provides a multi-auction withdrawal payment report detailing the final withdrawal payments and the amounts due).

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from any up-front payments or down payments deposited for Preferred's account with the Commission.¹² The cumulative sum of these interim bid withdrawal payments is \$23,401.00.¹³ Therefore, in accordance with Section 1.2104 of the Commission's rules, after applying the interim bid withdrawal payments of \$23,401.00, Preferred owes an outstanding balance of \$155,049.00 in connection with the licenses it withdrew high bids on in Auction No. 34.

Sum of Final Bid Withdrawal Payments	\$178,450.00
Less sum of Interim Withdrawal Payments	\$ 23,401.00
Total amount due	\$155,049.00

As a result, Preferred is in debt to the United States in the amount of \$155,049.00 payable in full, immediately, and without further demand. As permitted under 31 U.S.C. § 3717, the debt is subject to interest, penalties, and administrative costs, and interest accrues from the date of this letter, which is also its mailing date. Preferred, the debtor, may avoid payment of the interest if it tenders to the Commission full payment within 30 days of the date of the letter. Moreover, the debt is subject to an additional charge to cover the cost of processing and handling of delinquent debts, and a penalty charge in the amount permitted by law. The penalty charge for delinquent debt payments permitted by 31 U.S.C. § 3717 currently is 6 percent a year for the failure to pay any part of the debt more than 90 days past due.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.2104 of the Commission's Rules, 47 C.F.R. § 1.2104(g), Preferred IS ASSESSED a final withdrawal payment in the amount of \$130,700.00 for license BEA009-D, \$47,750.00 for license BEA018-F, as computed in Attachment A. IT IS FURTHER ORDERED, that no final withdrawal payments are due on licenses BEA020-F, BEA066-D, BEA069-E, and BEA069-FF.

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, the sum of Preferred's interim bid withdrawal payments of \$23,401.00 will be applied towards the sum of the final withdrawal payments for the two 800 MHz SMR licenses from Auction No. 34, leaving Preferred with a debt to the Commission of \$155,049.00.

IT IS FURTHER ORDERED that Preferred's debt of \$155,049.00 be paid immediately, in accordance with the payment instructions in Attachment B within 30 days of the date of this letter, and if it is unpaid 30 days of the date of this letter, interest will accrue from the date of this letter along with penalties and administrative costs permitted by 31 U.S.C. § 3717.

¹² See Auction No. 34 Winning Bidders' Public Notice, 15 FCC Rcd at 17165 at Attachment C.

¹³ See Auction No. 34 Winning Bidders' Public Notice, 15 FCC Rcd at Attachment B, 17220.

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IT IS FURTHER ORDERED that this letter shall be sent to the applicant and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Kelly A. Quinn, Deputy Chief
Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

cc: Ms. Michelle Bishop
Preferred Acquisitions, Inc.
170-C North Palm Canyon Drive
Palm Springs, CA 92262

ATTACHMENT A

800 MHz Specialized Mobile Radio (SMR) Service General Category (851-854 MHz) and Upper Band (861-865 MHz) Spectrum License Auction
Multi-Auction Bid Withdrawal Payment Report

License Number	Market Description	AUCTION NO. 34 Net Winning Bid Amount	AUCTION NO. 43 Net Winning Bid Amount	Preferred's Final Bid Withdrawal Payment (Difference between the Auction 34 and Auction 43 Net Bids)
BEA009-D	State College, PA	\$167,700.00	\$37,000.00	\$130,700.00
BEA018-F	Greensboro-Winston-Salem High	\$347,750.00	\$300,000.00	\$47,750.00
BEA020-F	Norfolk-Virginia Beach-Newport	\$228,800.00	\$302,000.00	N/A
BEA066-D	Fort Wayne, In	\$9,750.00	\$12,000.00	N/A
BEA069-E	Evansville-Henderson, IN-KY-IL	\$13,000.00	\$14,950.00	N/A
BEA069-FF	Evansville-Henderson, IN-KY-IL	\$13,000.00	\$14,950.00	N/A
Total Final Bid Withdrawal Payments				\$178,450.00
Less Interim Withdrawal Payments				- \$23,401.00
Total Outstanding Balance				\$155,049.00

ATTACHMENT B

The following information is being provided to assist you in making your payment.

PAYMENT INSTRUCTIONS

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by Mellon Bank by 6:00 PM Eastern Time, no later than thirty days from the date of the ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261

Receiving Bank: Mellon Pittsburgh

BNF: FCC/Account #911-6106

OBI Field: (Skip one space between each information item)

“AUCTIONPAY”

TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, Block 12)

PAYMENT TYPE CODE (enter “ADFT”) same as FCC Form 159, Block 24A

FCC CODE 1 (same as FCC Form 159, Block 28A: (“5 or 10”)

PAYOR NAME (same as FCC Form 159, Block 2)

LOCKBOX No.: 358850

A completed FCC Remittance Advice Form (FCC Form 159, Version 2/00) must accompany payments. On the same business day that the applicant submits payment to Mellon Bank, the applicant must submit a completed FCC Form 159 via facsimile at (412) 209-6045, at least one-hour prior to placing the order for the wire transfer. The specified debt is due and payable to the United States immediately and without demand, and it is subject to interest, penalties, and additional administrative costs. Interest accrues from the date of the ORDER; however, to avoid the payment of charges (i.e., interest, penalties, and administrative costs) and enforced collection, full payment must be made and received within 30 days from the date of the ORDER. Debtor's failure to make complete timely payment will result in assessment of such charges permitted by 31 U.S.C. § 3717.

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser or Tim Dates, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578 or (202) 418-0496.