



Federal Communications Commission
Washington, D.C. 20554

DA 02-962
April 26, 2002

Via certified mail, return receipt requested

Marvin P. Leon Guerrero, President
Communication Specialists, Inc.
7922 Aslito Rd.
Saipan, MP 96950
Fax No. (670) 288-2743

Re: Final Withdrawal Payments for Auction 34

Dear Mr. Leon Guerrero:

Communications Specialists, Inc. ("CommSpec"), a participant in Auction No. 34, withdrew a high bid on license BEA 173-E.¹ Auction No. 43, the subsequent auction for the license on which CommSpec withdrew a high bid in Auction No. 34, has closed.² Therefore, in accordance with the Commission's rules, we are now able to calculate CommSpec's final bid withdrawal obligation.

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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.³ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁴ This payment amount is deducted from any up-front payments or down payments deposited for the bidder's account with the Commission.⁵ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and, upon appropriate request, the Commission will refund the interim three percent (3%) payment.⁶ If in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn amount, then the bidder will be required to make a final bid withdrawal payment equal to either the difference between the bidder's net

¹ 800 MHz Specialized Mobile Radio (SMR) Service General Category (851-854 MHz) and Upper Band (861-865 MHz) Auction Closes, *Public Notice*, DA 00-2037 (rel. Sept. 6, 2000) ("*Auction No. 34 Closing Public Notice*") (CommSpec submitted identical winning bids on two licenses, BEA 173-E and BEA 173-EE. The gross bid on each license was in the amount of \$99,000.00, and the net bid on each was \$64,350.00. CommSpec subsequently fulfilled its payment obligations with regard to BEA 173-EE, but withdrew its winning bid on BEA 173-E).

² "Multi-Radio Service Auction Closes," *Public Notice*, DA 02-157 (rel. January 22, 2002) ("*Auction No. 43 Closing Public Notice*").

³ 47 C.F.R. § 1.2104(g)(1) (1998).

⁴ 47 C.F.R. § 1.2104(g)(1); *Auction No. 34 Closing Public Notice*, at Attachment C (identifies bidders that withdrew bids in Auction No. 34 and states the interim three percent bid withdrawal payment).

⁵ *See* 47 C.F.R. § 1.2106(e) (1998); *Auction No. 34 Closing Public Notice*, at Attachment B.

⁶ 47 C.F.R. § 1.2104(g)(1).

withdrawn bid and 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 CommSpec's bid withdrawal in Auction No. 34, the Commission has previously deducted an interim bid withdrawal payment in the amount of \$1,931.00 from the funds on deposit with the Commission because license BEA 173-E remained unsold at the conclusion of Auction No. 34.⁸ As shown in Attachment A, in Auction No. 43, the subsequent auction of license BEA 173-E, the net winning bid amount of \$1,625.00 was less than CommSpec's net withdrawn bid, \$64,350.00.⁹ In accordance with Section 1.2104 of the Commission's rules,¹⁰ CommSpec owes a final withdrawal payment for license BEA 173-E in the amount of \$62,725.00. After applying the interim bid withdrawal payment of \$1,931.00,¹¹ CommSpec owes an outstanding balance of \$60,794.00.¹²

CommSpec is in debt to the United States in the amount of \$60,794.00, 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. CommSpec, 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.

3. 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), CommSpec IS ASSESSED a final withdrawal payment of \$62,725.00, as a result of CommSpec's withdrawal of its bid on license BEA 173-E, as computed in Attachment A.

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, CommSpec's interim bid withdrawal payment of \$1,931.00, will be applied towards the sum of the final withdrawal payment for license BEA 173-E, leaving CommSpec with a debt to the Commission of \$60,794.00.

It is FURTHER ORDERED that CommSpec's debt of \$60,794.00 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

⁷ *Id.*

⁸ *See Auction No. 34 Closing Public Notice*, at Attachment C. In Attachment C, the Commission set for the amount of CommSpec's interim bid withdrawal payment, \$1,931.00, and explained that the interim bid withdrawal payment was based on three percent (3%) of the net withdrawn bid on license BEA 173-E ($\$64,350 \times 3\% = \$1,931$).

⁹ *See Attachment A to this letter* (calculates the final bid withdrawal payment).

¹⁰ 47 C.F.R. § 1.2104(g)(1).

¹¹ *Auction No. 34 Closing Public Notice*, Attachment B (CommSpec paid \$5,200.00 in upfront payments before the start of Auction No. 34. At the close of Auction No. 34, a three percent interim payment was assessed. The remaining monies from the upfront payment, \$3,269.00, were credited towards the initial down payment for the license that CommSpec won during Auction No. 34, license BEA 173-EE).

¹² 47 C.F.R. § 1.2104(g)(1). To make the final bid withdrawal payment, CommSpec must submit payment in accordance with the instructions set forth in Attachment B.

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penalties and administrative costs permitted by 31 U.S.C. § 3717.

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

cc: Joseph C. Duenas
P.O. Box 20921
Barrigada, Guam 96921

Joseph M. Leon Guerrero
141 N. Paulino Hts.
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ATTACHMENT A

**800 MHz SMR General Category and Upper Bands
Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	AUCTION 34, CommSpec Withdrawn Gross Bid Amount	AUCTION 34, CommSpec Withdrawn Net Bid Amount	AUCTION 43, TeleBeeper of New Mexico, Inc.'s Gross Bid Amount	AUCTION 43, TeleBeeper of New Mexico, Inc.'s Net Winning Bid Amount	Final Bid Withdrawal Payment (Difference between the Auction 34 and Auction 43 Net Bids)	CommSpec's Interim Withdrawal Payment (3% of withdrawn net bid)	Total Amount Due
BEA 173-E	Guam-Northern Marianas	\$99,00.00	\$64,350.00	\$2,500.00	\$1,625.00	\$62,725.00	\$1,931.00	\$60,794.00

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"
FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 11 and/or 21)
PAYMENT TYPE CODE (enter "APEN") same as FCC Form 159, Block 24A
FCC CODE 1 (same as FCC Form 159, Block 28A: ("18"))
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.