



Federal Communications Commission  
Washington, D.C. 20554

June 23, 2004

DA 04-1504

**Via Certified Mail, Return Receipt Requested**

Mr. Kent S. Foster  
Silver Palm Communications, Inc.  
5454 Wisconsin Ave., Suite 720  
Chevy Chase, MD 20815

Re: Silver Palm Communications, Inc. -- Notice of Interim Default Payment  
Obligations for Auction No. 34

Dear Mr. Foster:

This letter provides notice of interim default payment obligations for Silver Palm Communications, Inc. ("Silver Palm"), with respect to its defaults arising out of a Commission auction of licenses in the 800 MHz Specialized Mobile Radio Service ("Auction No. 34"). Silver Palm, a participant and high bidder in Auction No. 34, was the winning bidder on ten licenses.<sup>1</sup> As described below, Silver Palm defaulted on its final payment obligations for its winning bids. Accordingly, this letter sets forth the interim default obligations of Silver Palm for its ten defaulted bids.

Under the Federal Communication Commission's ("Commission") rules, a bidder who fails to timely remit the required final payment for a license for which it was the high bidder is in default, its application is dismissed, and it is subject to a default payment.<sup>2</sup> Each default payment is comprised of two parts. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time the license is offered by the Commission (so long as the subsequent winning bid is less than the defaulted bid).<sup>3</sup> This component of the default payment cannot be determined until after the licenses on which

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<sup>1</sup> Licenses Nos. BEA126F (Western Oklahoma, OK), BEA126FF (Western Oklahoma, OK), BEA128F (Abilene, TX), BEA129F (San Angelo, TX), BEA130F (Austin, - San Marcos, TX), BEA130FF (Austin, - San Marcos, TX), BEA134E (San Antonio, TX), BEA134EE (San Antonio, TX), BEA173B (Guam and Northern Mariana Islands), BEA173C (Guam and Northern Mariana Islands). See "800 MHz Specialized Mobile Radio (SMR) Service General Category (851-854 MHz) and Upper Band (861-865 MHz) Auction Closes, Winning Bidders Announced," *Public Notice*, 15 FCC Rcd 17162 at Appendix A (2000) ("Auction No. 34 Closing Public Notice").

<sup>2</sup> 47 C.F.R. §§ 1.2109(c), 1.2104(g)(2).

<sup>3</sup> 47 C.F.R. § 1.2104(g)(2).

Silver Palm defaulted are re-auctioned. The second component of the default payment is an additional payment equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.<sup>4</sup> If either bid amount is subject to a bidding credit, the three percent (3%) will be calculated using the same bid amounts and basis (net or gross bids) as in the first component of the default payment.<sup>5</sup> In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted bid.<sup>6</sup>

On September 6, 2000, the Wireless Telecommunications Bureau ("Bureau") announced the winning bidders in Auction No. 34.<sup>7</sup> The Bureau also announced that by no later than September 20, 2000, all Auction No. 34 winning bidders were required to submit FCC Form 601 long-form applications and down payments that would bring each winning bidders' deposits to twenty-percent (20%) of its winning bids.<sup>8</sup> Silver Palm's net winning bids totaled \$393,000.<sup>9</sup> Silver Palm timely made its down payment, which brought its deposits to \$78,600, and left it with a remaining balance due of \$314,400. Silver Palm did not timely file its long-form application. On October 4, 2000, fourteen days after the long-form filing deadline, Silver Palm filed its long-form application together with a request for waiver of Section 1.2107(c) of the Commission's rules, which requires a winning bidder to submit its long-form application within ten (10) business days after being notified that it is a high bidder.<sup>10</sup> On April 12, 2002, the Bureau granted Silver Palm's waiver request.<sup>11</sup> On August 30, 2002, the Bureau announced that it was prepared to grant Silver Palm's long-form application and established a September 16, 2002 deadline for full payment of Silver Palm's remaining balance of \$314,400.<sup>12</sup> Also, the Bureau announced that after this deadline late payment would be accepted if made by September 30, 2002 and accompanied by a five percent (5%) late fee of an additional \$16,900.<sup>13</sup> Silver Palm failed to meet these payment deadlines.

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Auction No. 34 Closing Public Notice*, 15 FCC Rcd 17162.

<sup>8</sup> *Id.*, 15 FCC Rcd at 17163, 17167.

<sup>9</sup> *Id.*, 15 FCC Rcd 17162 at Appendix A. The amounts of Silver Palm's net winning bids, payments, and interim default payment debt are presented in Attachment A of this letter.

<sup>10</sup> *See Silver Palm Communications, Inc., Order*, 17 FCC Rcd 6606, ¶ 2 (2002); 47 C.F.R. § 1.2107(c).

<sup>11</sup> *Id.*, 17 FCC Rcd at 6607-08, ¶ 8.

<sup>12</sup> "Wireless Telecommunications Bureau Announces It Is Prepared To Grant 800 MHz Specialized Mobile Radio Service (SMR) General Category (851-854 MHz) And Upper Band Auction Licenses Upon Full and Timely Payment, Auction Event No. 34," *Public Notice*, 17 FCC Rcd 16496 (2002) ("*Silver Palm Prepared to Grant Public Notice*").

<sup>13</sup> *Id.*

Accordingly, Silver Palm is considered to be in default on the ten licenses for which it was the high bidder in Auction No. 34, its long-form application is dismissed, and it is subject to the applicable default payments.<sup>14</sup> Pursuant to Sections 1.2104(g)(2) of the Commission's rules, Silver Palm owes an interim default payment of \$11,790, which is three-percent (3%) of its net winning bids of \$393,000.<sup>15</sup> Pursuant to Section 1.2106(e) of the Commission's rules, we will apply Silver Palm's payments on deposit to satisfy this initial default payment obligation.<sup>16</sup> Once subsequent high bids are established for the relevant spectrum, we will determine Silver Palm's final default payment obligation.<sup>17</sup> If an additional payment is required, a further order will assess such payment.<sup>18</sup>

### Ordering Clauses

Accordingly, it is ORDERED, pursuant to Sections 0.331, 1.2104(g)(2), and 1.2106(e) of the Commission's rules, 47 C.F.R. §§ 0.331, 1.2104(g)(2), 1.2106(e), Silver Palm Communications, Inc. is assessed an interim default payment of \$11,790 for its defaulted high bids for licenses BEA126F (Western Oklahoma, OK), BEA126FF (Western Oklahoma, OK), BEA128F (Abilene, TX), BEA129F (San Angelo, TX), BEA130F (Austin - San Marcos, TX), BEA130FF (Austin - San Marcos, TX), BEA134E (San Antonio, TX), BEA134EE (San Antonio, TX), BEA173B (Guam and Northern Mariana Islands), BEA173C (Guam and Northern Mariana Islands) in Auction No. 34, and we will apply Silver Palm's upfront and down payments on deposit to satisfy this initial default payment obligation.

It is FURTHER ORDERED pursuant to Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 309(j), and Sections 0.331 and 1.2109 of the Commission's rules, 47 C.F.R. §§ 0.331 and 1.2109, that the FCC Form 601 long-form application of Silver Palm Communications, Inc., File Number 0000233574, is DISMISSED with prejudice.

It is FURTHER ORDERED, pursuant to Sections 0.331 and 1.2104(g)(2) of the Commission's rules, 47 C.F.R. §§ 0.331 and 1.2104(g)(2), that Silver Palm Communications, Inc. will be subject to a final default payment for its defaulted high bids for licenses BEA126F (Western Oklahoma, OK), BEA126FF (Western Oklahoma, OK), BEA128F (Abilene, TX), BEA129F (San Angelo, TX), BEA130F (Austin - San Marcos, TX), BEA130FF (Austin - San Marcos, TX), BEA134E (San Antonio, TX), BEA134EE (San Antonio, TX), BEA173B (Guam and Northern Mariana Islands), BEA173C (Guam and Northern Mariana Islands) in Auction No. 34 once the spectrum associated with these licenses is re-auctioned and the full payment amount is determined.

It is FURTHER ORDERED that this letter shall be sent to the applicants and its

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<sup>14</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c).

<sup>15</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>16</sup> See 47 C.F.R. § 1.2106(e).

<sup>17</sup> *Id.*

<sup>18</sup> See *In the Matter of Mountain Solutions Ltd., Inc., Order on Reconsideration of Memorandum Opinion and Order*, 13 FCC Rcd 21,983, 21,997 ¶ 25 (1998).

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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,

Rita Cookmeyer  
Financial Policy Analyst  
Auctions and Spectrum Access Division  
Wireless Telecommunications Bureau

cc: Sherry J. Wheeler, Esq.  
Corporate Counsel  
Silver Palm Communications, Inc.  
5454 Wisconsin Ave., Suite 720  
Chevy Chase, MD 20815

ATTACHMENT A  
 Auction No. 34  
 800 MHz SMR General Category Service Auction  
**Interim Bid Withdrawal Payment Report**

Licenses	Net Winning Bid	Upfront Payment	Down Payment	Amount on Deposit (20 percent of net winning bid)	Interim Default Payment (3 percent of net winning bid)
BEA126F	6,300.00	881.68	378.32	1,260.00	189.00
BEA126FF	6,450.00	902.67	387.33	1,290.00	193.50
BEA128F	23,250.00	3,253.82	1,396.18	4,650.00	697.50
BEA129F	33,000.00	4,618.32	1,981.68	6,600.00	990.00
BEA130F	16,500.00	2,309.16	990.84	3,300.00	495.00
BEA130FF	24,750.00	3,463.74	1,486.26	4,950.00	742.50
BEA134E	30,000.00	4,198.47	1,801.53	6,000.00	900.00
BEA134EE	21,000.00	2,938.93	1,261.07	4,200.00	630.00
BEA173B	84,750.00	11,860.69	5,089.31	16,950.00	2,542.50
BEA173C	147,000.00	20,572.52	8,827.48	29,400.00	4,410.00
<b>TOTAL (\$)</b>	<b>393,000.00</b>	<b>55,000.00</b>	<b>23,600.00</b>	<b>78,600.00</b>	<b>11,790.00</b>