



Federal Communications Commission
Washington, D.C. 20554

September 9, 2002

DA 02-2179

Via certified mail, return receipt requested

Police Emergency Radio Services, Inc.
82 Herbert Street
Framingham, Massachusetts 01702
Attn: Robert A. Fay; William A. Campbell

Robert A. Fay
7 Wamsutt Avenue
Worcester, Massachusetts 01602

Robert Schwaninger, Esq.
1835 K Street, N.W., Suite 650
Washington, D.C. 20006

Re: Final Bid Withdrawal Payment For Auction No. 24

Dear Messrs. Fay, Campbell, and Schwaninger:

The Police Emergency Radio Services, Inc. ("PERS"), a participant in Auction No. 24, withdrew a high bid on license EAG004F, Great Lakes in that auction.¹ Auction No. 43, the subsequent auction for the license on which PERS withdrew a high bid in Auction No. 24, has closed.² Therefore, in accordance with the Commission's rules, we are able to calculate PERS' 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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.³ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁴

¹ Phase II 220 MHz Service Spectrum Auction Closes, Winning Bidders in the Auction of 225 Licenses in the Phase II 220 MHz Service, Down Payments Due July 16, 1999, *Ten-Day Petition to Deny Period, Public Notice*, at Attachment C, 14 FCC Rcd 11218 (1999) ("*Auction No. 24 Winning Bidders' Public Notice*").

² Multi-Radio Service Auction Closes, Winning Bidders Announced, Down Payments Due February 5, 2002, *Ten-Day Petition to Deny Period, 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) (1998).

⁴ 47 C.F.R. § 1.2104(g)(1); *see also Auction No. 24 Winning Bidders' Public Notice* at Attachment C. This attachment shows that PERS withdrew a bid in Auction 24 and indicates the interim three percent bid withdrawal payment.

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This payment amount is deducted from any up-front payments or down payments deposited for 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Commission.⁵ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and upon appropriate request, the Commission will refund the interim three percent (3%)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 PERS' bid withdrawal in Auction No. 24, as shown in Attachment A,⁸ in Auction No. 43, the subsequent auction of license EAG004F, the winning bid amount of \$78,000 for the license was less than PERS' withdrawn bid amount of \$141,050.⁹ In accordance with Section 1.2104 of the Commission's rules,¹⁰ PERS owes a final bid withdrawal payment of \$63,050 in connection with license EAG004F. Because license No. EAG004F was unsold at the close of Auction No. 24, the Commission has previously deducted an interim bid withdrawal payment of \$4,232 from the funds on deposit with the Commission.¹¹ Therefore, in accordance with Section 1.2104 of the Commission's rules, after applying the interim bid withdrawal payment of \$4,232 to the final bid withdrawal payment, PERS owes an outstanding balance of \$58,818.¹²

As a result, PERS is in debt to the United States in the amount of \$58,818, 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. PERS, the debtor, may avoid payment of the interest if it tenders to the Commission full payment within 30 days of the date of this 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 payment 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.

⁵ 47 C.F.R. § 1.2106(e); *Auction No. 24 Winning Bidders' Public Notice* at Attachment C.

⁶ 47 C.F.R. § 1.2104(g)(1).

⁷ *Id.*

⁸ Because the subsequent winning bidder in Auction No. 43. did not apply for a bidding credit, the winning bid is both the gross and the net winning bid. *See Auction No. 43 Winning Bidders' Public Notice*, Attachment A, p.1 of 2. Accordingly, Attachment A calculates the final withdrawal payment based upon PERS' net withdrawn bid in Auction No. 24 for license EAG004F minus the winning bid in Auction No. 43.

⁹ *Auction No. 24 Winning Bidders' Public Notice* at Attachment C.

¹⁰ 47 C.F.R. § 1.2104(g)(1).

¹¹ *Auction No. 24 Winning Bidders' Public Notice* at Attachment C.

¹² *Id.* To make the final bid withdrawal payment, PERS must submit payment in accordance with the instructions set forth in Attachment B.

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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(g) of the Commission's Rules, 47 C.F.R. § 1.2104(g), PERS IS ASSESSED a final withdrawal payment of \$63,050 as a result of PERS' withdrawal of its bid on license EAG004F as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, PERS' interim withdrawal payment of \$4,232 will be applied toward the final withdrawal payment for license EAG004F, leaving PERS with a debt to the Commission of \$58,818.

IT IS FURTHER ORDERED that PERS' debt of \$58,818 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.

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,

Margaret W. Wiener, Chief
Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

Robert A. Fay,
 William A. Campbell, and
 Robert Schwaninger
 September 9, 2002

ATTACHMENT A

**Phase II 220 MHz Service Spectrum
 Bid Withdrawal Payment Report**

License Number	Freq Blk	Market Description	Bidder Name	PERS Withdrawn Net Bid Amount (Auction 24)	Winning Bid Amount (Auction 43)	PERS Final Bid Withdrawal Payment	PERS Interim Withdrawal Payment	PERS Outstanding Balance
EAG004F	F	Great Lakes	Police Emergency Radio Services (PERS)	\$141,050.00 (-)	\$78,000.00 =	\$63,050.00 -	\$4,232.00 =	\$58,818.00

Attachment B

SUBMITTING PAYMENT INSTRUCTIONS

Method of Payment

All payments must be made in U.S. dollars, must be in the form of a Wire Transfer. No personal checks, credit cards payments, or other forms of payment will be accepted.

To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261
Receiving Bank: Mellon in Pittsburgh, PA
BNF: FCC/AC-9116106
OBI Field: (Skip one space between each informational item.)
"AUCTION PAY"
APPLICANT FRN (same as FCC Form 159, Block 11)
PAYMENT TYPE CODE (same as FCC Form 159, Block 24A: "APEN")
FCC CODE 1 (same as FCC Form 159, Block 28A: "24")
PAYOR NAME: (the same payor name as FCC Form 159, Block 2)
LOCKBOX NO.: 358850

A completed FCC Remittance Advice Form (FCC Form 159) must accompany all payments. On the same business day that the applicant pays the amount due to Mellon Bank, the applicant must fax a completed FCC Form 159 to Mellon Bank at (412) 209-6045 at least one hour prior to placing the order for the wire transfer.

Further information

For questions regarding the submission of payment or the FCC Form 159, contact Gail Glasser or Tim Dates, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-1995.