



Federal Communications Commission  
Washington, D.C. 20554

August 30, 2007

DA 07-3806

**Via Certified Mail, Return Receipt Requested**

Bramah Broadcasting, LLC  
Attn: Roosevelt Gremillion  
8677 St. Joseph Street  
New Roads, LA 70760

**Re: Notice of Interim Default Payment Obligation for Auction No. 70**

Dear Mr. Gremillion:

This letter provides notice of the interim default payment obligation for Bramah Broadcasting, LLC (“Bramah”) with respect to its default arising out of a Federal Communications Commission (“Commission”) auction of FM broadcast construction permits (“Auction No. 70”). Bramah, a participant in Auction No. 70, was the winning bidder on FM broadcast construction permit FM543-A (Bordelonville, LA).<sup>1</sup> As described below, Bramah defaulted on its payment obligation for its winning bid for that permit. Accordingly, this letter sets forth the interim default obligation of Bramah for its defaulted bid.

Under the Commission’s Rules (“Rules”), a bidder who fails to timely remit the required down or final payment for a license or permit for which it was the high bidder is subject to a default payment.<sup>2</sup> The default payment has two components. 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 or permit 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 permit on which Bramah defaulted is acquired in a subsequent auction. The second component of the default payment is an additional payment equal to twenty percent (20%) 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, this component of the default payment

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<sup>1</sup> See Auction of FM Broadcast Construction Permits Closes, *Public Notice*, DA 07-1437, 22 FCC Rcd. 6323 (2007) (“Closing Public Notice”).

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

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

<sup>4</sup> See Auction of FM Broadcast Construction Permits Scheduled for March 7, 2007, Notice and Filing

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 twenty percent (20%) of the defaulted bid.<sup>6</sup> Until the close of the subsequent auction, the Commission cannot determine the full amount of the default payment that is owed. Therefore, the Commission assesses an interim payment amounting to between three and twenty percent of the net winning bid.<sup>7</sup> The remainder, if any, is assessed once a subsequent winning bid for the defaulted permit is established.

On April 2, 2007, the Wireless Telecommunications Bureau and the Media Bureau (collectively “the Bureaus”) announced the winning bidders in Auction No. 70.<sup>8</sup> The Bureaus also announced that by no later than April 16, 2007, all Auction No. 70 winning bidders were required to have on deposit enough funds to bring each winning bidders’ deposits to twenty-percent (20%) of its winning bids and, by April 30, 2007, all winning bidders were required to submit a final payment for the balance of the net amount of each winning bid.<sup>9</sup> If a winning bidder’s upfront payment was not sufficient to meet the down payment requirement, the winning bidder was required to deposit sufficient funds to meet its down payment. Bramah’s net winning bid totaled \$114,000.00.<sup>10</sup> The Bureaus applied Bramah’s \$10,000.00 of upfront money toward the down payment requirement and notified Bramah of the additional amount due of \$12,800.00.<sup>11</sup> On April 16, 2007, Bramah submitted the balance owed on the down payment. Bramah failed to submit the final payment due on April 30, 2007.

The *Closing Public Notice* also announced that, pursuant to Section 73.5005(a) of the Rules, all winning bidders were required to submit a completed long-form application for each construction permit for which they were a winning bidder by May 2, 2007.<sup>12</sup> In accordance with the Rules, FCC Form 301 must be accompanied by the appropriate application filing fee.<sup>13</sup>

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Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 70, AU Docket No. 06-170, *Public Notice*, 21 FCC Rcd 12957, 12997 ¶ 171 (MB/WTB 2006).

<sup>5</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>6</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>7</sup> *See Part 1 Third Report and Order*, 13 FCC Rcd 374, 434 ¶ 102; *Competitive Bidding Fifth Report and Order*, 9 FCC Rcd at 5563 n.51; *see also Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2382-83 ¶ 197.

<sup>8</sup> *See Closing Public Notice*.

<sup>9</sup> 47 C.F.R. § 1.2107(b); 47 C.F.R. § 1.2109(a).

<sup>10</sup> *See Closing Public Notice* at Attachment A.

<sup>11</sup> *Id.* at Attachment B.

<sup>12</sup> *Id.*; 47 C.F.R. § 73.5005(a).

<sup>13</sup> *See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial*

Bramah created the long-form application for filing, but failed to submit the application filing fee.

Accordingly, Bramah is considered to be in default on FM broadcast construction permit FM543-A for which it was the high bidder in Auction No. 70 and is subject to the applicable default payment.<sup>14</sup> Pursuant to Section 1.2104(g)(2) of the Rules, Bramah owes an interim default payment of \$22,800.00, which is twenty percent (20%) of its net winning bid of \$114,000.00.<sup>15</sup> Pursuant to Section 1.2106(e) of the Rules, we will apply Bramah's down payment on deposit to satisfy this interim default payment obligation.<sup>16</sup> Once a subsequent high bid is established for the relevant spectrum, we will determine Bramah'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 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)(2) of the Commission's Rules, 47 C.F.R. § 1.2104(g)(2), Bramah Broadcasting, LLC is ASSESSED an interim default payment of \$22,800.00 for its defaulted high bid for FM broadcast construction permit FM543-A in Auction No. 70.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, Bramah Broadcasting, LLC's funds on deposit will be applied to satisfy the interim default payment obligation.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. § 1.2104(g)(2), Bramah Broadcasting, LLC will be subject to a final default payment for its defaulted high bid for FM broadcast construction permit FM543-A in Auction No. 70 once the spectrum associated with the permit is re-auctioned and the full default payment amount is determined.

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Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *First Report and Order*, 13 FCC Rcd 15920, 15984 ¶ 164 (1998).

<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> 47 C.F.R. § 1.2104(g)(2).

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

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,

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