



Federal Communications Commission
Washington, D.C. 20554

April 2, 2012

DA 12-521

Via Certified Mail, Return Receipt Requested

Trident Global Communications, LLC
Attn: Errol Olivier
711 W. Bay Area Boulevard
Suite 405
Webster, TX 77598

**Re: Notice of Interim Default Payment Obligation for Auction 86 License BR-BTA496-C
(Gulf of Mexico)**

Dear Mr. Olivier:

This Order provides notice of the interim default payment obligation for Trident Global Communications, LLC (“Trident Global”) with respect to its default arising out of Auction 86, confirms the receipt of Trident Global’s interim default payment, and dismisses Trident Global’s long-form license application (FCC Form 601).

As described fully below, Trident Global had the winning bid in Auction 86 for the Broadband Radio Service license BTA-496-C.¹ After the close of Auction 86, Trident Global defaulted on its payment obligations for its winning bid.² Thus, Trident Global became subject to the default provisions of section 1.2104(g) of the Commission’s rules.³

On November 6, 2009, the Wireless Telecommunications Bureau (“Bureau”) announced the winning bidders in Auction 86, including Trident Global.⁴ The Bureau also announced that by no later than November 23, 2009, all Auction 86 winning bidders were required to submit their long form applications and to have on deposit enough funds to bring each winning bidder’s deposit to twenty-percent (20%) of its winning bid.⁵ The Bureau further instructed that by December 8, 2009, all winning bidders were required to submit a final payment for the balance of the net amount of each winning bid.⁶ 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.⁷

¹ See Auction of Broadband Radio Service Licenses Closes; Winning Bidders Announced for Auction 86, *Public Notice*, 24 FCC Rcd 13,572 (2009) (“*Auction 86 Closing Public Notice*”).

² Trident Global has acknowledged its default. See Letter from Scott Chamberlain, Chief Financial Officer, Trident Global Communications, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission (filed June 7, 2010) (“*June 7th Letter*”).

³ 47 C.F.R. § 1.2104(g)(2); see also *Auction 86 Closing Public Notice*, 24 FCC Rcd at 13,577 ¶ 25.

⁴ *Auction 86 Closing Public Notice*, 24 FCC Rcd 13,572.

⁵ *Id.* at 13,573 ¶ 4, 13,578 ¶ 30; see also 47 C.F.R. § 1.2107(b), (c).

⁶ *Auction 86 Closing Public Notice*, 24 FCC Rcd at 13,573-74 ¶ 6; see also 47 C.F.R. § 1.2109(a).

⁷ *Auction 86 Closing Public Notice*, 24 FCC Rcd at 13,573 ¶ 4.

Trident Global's net winning bid totaled \$655,000.00.⁸ The Bureau applied the \$60,000.00 upfront payment amount that Trident Global had on deposit toward its down payment requirement and notified Trident Global that the additional amount due to meet its down payment obligation was \$71,000.00.⁹ Although Trident Global timely submitted a long-form application for the license, it failed to remit its required down payment due by November 23, 2009.¹⁰ Subsequently, Trident Global also failed to submit the final payment of \$524,000.00 due by December 8, 2009. Thus, Trident Global became subject to the default provisions of section 1.2104(g) of the Commission's rules.¹¹ Further, section 1.2109(c) of the Commission's rules provides that a winning bidder that "fails to remit the balance of its winning bid in a timely manner . . . will be deemed to have defaulted [and] its application will be dismissed"¹²

Under the Commission's rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid.¹³ A bidder who defaults on that obligation or is disqualified is subject to a default payment.¹⁴ 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 a license for the spectrum is won, should the subsequent winning bid be less than the defaulted bid.¹⁵ The second component of the default payment is an additional payment, which, pursuant to the rule in effect at the time of Auction 86, is equal to fifteen percent (15%) of the defaulter's bid, or the subsequent winning bid, whichever is less.¹⁶ In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to fifteen percent (15%) of the defaulted bid.¹⁷

Until a new license for the relevant spectrum is won in a subsequent auction, the Commission cannot determine the full amount of the default payment that is owed. Pursuant to its rules, the Commission therefore assesses an interim default payment amounting to between three and twenty percent of the net winning bid.¹⁸ Once a subsequent winning bid for the relevant spectrum is established,

⁸ See *id.* at 13,585-86.

⁹ See *id.* at 13,586. Commission staff sent to Trident Global on November 6, 2009, a pre-filled Remittance Advice Form (Form 159) showing the amount of Trident Global's first down payment and final payment in an overnight mailing that also included a copy of the *Auction 86 Closing Public Notice*.

¹⁰ See FCC Application for Wireless Telecommunications Bureau Broadband Radio Service Authorization (FCC 601), File No. 0004031595 (publicly available through the Commission's Universal Licensing System website, <http://wireless.fcc.gov/uls/>) (filed Nov. 18, 2009); see also *June 7th Letter*.

¹¹ 47 C.F.R. § 1.2104(g)(2).

¹² 47 C.F.R. § 1.2109(c).

¹³ 47 C.F.R. § 1.2104(g)(2).

¹⁴ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

¹⁵ 47 C.F.R. § 1.2104(g)(2)(i).

¹⁶ 47 C.F.R. § 1.2104(g)(2)(2009); see Auction of Broadband Radio Service (BRS) Licenses Scheduled for October 27, 2009; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 86, *Public Notice*, 24 FCC Rcd 8277 (2009) ("*Auction 86 Procedures Public Notice*").

¹⁷ 47 C.F.R. § 1.2104(g)(2); see *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8325 ¶ 222.

¹⁸ See Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 434 ¶ 102 (1997); Implementation of Section 309(j) of the Communications Act — Competitive Bidding, PP Docket No. 93-253, *Fifth*

the remaining amount owed by the defaulting party, if any, is then assessed.

Accordingly, Trident Global is considered to be in default on the license for which it was the winning bidder in Auction 86, its long-form application is dismissed, and it is subject to the applicable default payment.¹⁹ Pursuant to section 1.2104(g)(2) of the Commission's rules and the procedures established for Auction 86, Trident Global owed an interim default payment of \$98,250.00, which is fifteen percent (15%) of its total net winning bid of \$655,000.00.²⁰ Pursuant to section 1.2106(e) of the rules, we applied Trident Global's \$60,000.00 payment on deposit toward satisfying this interim default payment obligation.²¹ After doing so, this left Trident Global with an outstanding balance of \$38,250.00. Trident Global paid that amount to the Commission's lockbox bank on June 8, 2010.²² Once a subsequent winning bid is established for the relevant spectrum, we will determine Trident Global's final default payment obligation. If an additional payment is required, a further order will assess such payment.²³

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), Trident Global Communications, LLC owed and has paid an interim default payment as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission's rules, 47 C.F.R. §§ 1.2104 and 1.2106, Trident Global Communications, LLC's funds on deposit with the Commission have been applied toward satisfying the interim default payment obligation.

IT IS FURTHER ORDERED that, pursuant to section 1.2104(g)(2), of the Commission's rules, 47 C.F.R. § 1.2104(g)(2), Trident Global Communications, LLC will be subject to a final default payment for its defaulted winning bid during Auction 86 for the Broadband Radio Service license BTA-496-C, once the spectrum associated with the license is won in a subsequent auction and the full default payment amount is determined.

IT IS FURTHER ORDERED that, pursuant to 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 Trident Global Communications, LLC, FCC File No. 0004031595, is DISMISSED with prejudice.

Report and Order, 9 FCC Rcd 5532, 5563 n.51 (1994); *see also* Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, 9 FCC Rcd 2348, 2382-83 ¶ 197 (1994).

¹⁹ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c).

²⁰ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c); *see Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8325 ¶ 222.

²¹ 47 C.F.R. § 1.2106(e).

²² *June 7th Letter*.

²³ *See Mountain Solutions Ltd., Inc., Memorandum Opinion and Order*, 13 FCC Rcd 21,983, 21,997 ¶ 25 (1998).

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IT IS FURTHER ORDERED that this Order shall be sent to Trident Global Communications, LLC 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,

Gary D. Michaels
Deputy Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

John J. Schauble
Deputy Chief, Broadband Division
Wireless Telecommunications Bureau

Attachment

cc: Raul Magallanes, Esq.
Errol Olivier
Russell H. Fox, Esq.
Scott Chamberlain, CFO
Trident Global Communications, LLC

ATTACHMENT A

Interim Default Payment Report

License Number Frequency Block	Gross Bid Auction 86	Net Bid Auction 86	Interim Payment Amount (15%)
BR-BTA-496-C	\$655,000.00	\$655,000.00	\$98,250.00

Interim Default Amount	\$98,250.00
Less Total of Amounts on Deposit	\$60,000.00
Interim Default Payment Received on June 8, 2010	\$38,250.00
Outstanding Balance	\$0.00