



Federal Communications Commission  
Washington, D.C. 20554

**DA 02-1649**  
**July 12, 2002**

**Via certified mail, return receipt requested**

Mr. David W. Niebert  
Vice President  
Intek License Acquisition Corporation  
1690 North Topping  
Kansas City, MO 64120

Mr. Robert B. Kelly, Esq.  
Squire, Sanders and Dempsey, L.L.P.  
P.O. Box 407  
1201 Pennsylvania Avenue N.W.  
Washington, DC 20044-0407

**Re: Bid Withdrawal Payment For Auction No. 18**

Dear Messrs. Niebert and Kelly:

Intek License Acquisition Corporation ("Intek"), a participant in Auction No. 18, withdrew high bids on sixteen licenses in that auction.<sup>1</sup> Those sixteen licenses remained unsold at the close of Auction No. 18.<sup>2</sup> Auction No. 24, the subsequent auction for the licenses on which Intek withdrew high bids in Auction No. 18 has closed.<sup>3</sup> Therefore, in accordance with the Federal Communications Commission's ("Commission") rules, we are now able to calculate Intek's 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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.<sup>4</sup> A withdrawal payment will not be

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<sup>1</sup> Phase II 220 MHz Service Auction Closes, Winning Bidders in the Auction of 908 Phase II 220 MHz Service Licenses, Report No. AUC-18-F (Auction No. 18), *Public Notice*, 14 FCC Rcd. 605, Attachment C (1998) ("*Auction No. 18 Winning Bidders Public Notice*"). During Auction No. 18, Intek withdrew high bids on thirty-six licenses and twenty of those licenses subsequently sold in the same auction. *Id.* at Attachment C. Because eight of the twenty licenses received winning bids that were less than Intek's withdrawn bid amount, a final bid withdrawal penalty in the amount of \$114,000.00 was assessed and deducted from Intek's upfront payment for licenses BEA003A, BEA015A, BEA029E, BEA107A, EAG003H, EAG005F, EAG005H, EAG005I. *Id.* at Attachment B and C. With respect to the remaining twelve licenses, no bid withdrawal penalties were assessed because the winning bid was equal to or greater than Intek's withdrawn bid amount for licenses BEA008B, BEA035B, BEA053E, BEA054A, BEA063A, BEA079B, BEA083B, BEA099E, BEA118D, BEA152E, BEA164E, and BEA174C. *Id.* at Attachment C.

<sup>2</sup> *Auction No. 18 Winning Bidders Public Notice* at Attachment A and C.

<sup>3</sup> Phase II 220 MHz Service Spectrum Auction Closes, Winning Bidders in the Auction of 225 Licenses in the Phase II 220 MHz Service, Report No. AUC-24-E (Auction No. 24), *Public Notice*, 14 FCC Rcd 11218 (1999) ("*Auction No. 24 Winning Bidders Public Notice*").

<sup>4</sup> 47 C.F.R. § 1.2104(g)(1) (1998).

assessed if the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid.<sup>5</sup> 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.<sup>6</sup> This payment amount is deducted from any up-front payments or down payments deposited for this bidder's account with the Commission.<sup>7</sup> If, in a subsequent auction, that license receives a winning bid (or a subsequent withdrawn bid) that is 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.<sup>8</sup> If in a subsequent auction, the winning bid for that license (or subsequent withdrawn bid) 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 subsequent net withdrawn bid), or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid (or subsequent gross withdrawn bid), whichever is less.<sup>9</sup>

With respect to Intek's withdrawals of sixteen high bids in Auction No. 18, because all sixteen licenses were auctioned in Auction No. 24, the Commission is able to assess the full amount of the final bid withdrawal payment for each license.<sup>10</sup> For four out of the sixteen licenses, a final bid withdrawal payment is due because the winning bid amount in Auction No. 24, the subsequent auction of those licenses is less than Intek's withdrawn bid amount.<sup>11</sup> With respect to the remaining twelve licenses, no final bid withdrawal payment is assessed because the winning bid or subsequent intervening withdrawn bid in Auction No. 24 was equal to or greater than Intek's withdrawn bid amount.<sup>12</sup> The cumulative sum of the final bid withdrawal payments is \$129,900.00 as shown below and in Attachment A to this letter.<sup>13</sup>

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

<sup>6</sup> *Id.*; *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at 608 and Attachment C (lists bidders' three percent interim bid withdrawal payments).

<sup>7</sup> 47 C.F.R. § 1.2106(e) (1998); *see Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at 608.

<sup>8</sup> 47 C.F.R. § 1.2104(g)(1).

<sup>9</sup> *Id.*

<sup>10</sup> *See Auction No. 24 Winning Bidders Public Notice*, DA 99-1287 at Attachment E which provides a multi-auction withdrawal payment report detailing Intek's final bid withdrawal payments and the amounts due.

<sup>11</sup> 47 C.F.R. § 1.2104(g)(1).

<sup>12</sup> With respect to license EAG003F, during Auction No. 24, 220 MHz Auction Group withdrew a gross high bid that was higher than Intek's withdrawn gross high bid in Auction No. 18. *Auction No. 24 Winning Bidders Public Notice* at Attachment C and E. Similarly, with respect to license EAG004F, Police Emergency Radio Services, Inc. withdrew a gross high bid that was higher than Intek's withdrawn gross bid in Auction No. 18. *Id.* Accordingly, Intek is not assessed bid withdrawal penalties on licenses EAG003F and EAG004F. 47 C.F.R. 1.2104(g)(1).

<sup>13</sup> Attachment A calculates the final bid withdrawal payments for each of the licenses; *see also Auction No. 24 Winning Bidders Public Notice* at Attachment E.

Albany-Schenectady-Troy, NY	BEA005C	\$ 0.00
Wheeling, WV-OH	BEA052B	\$ 0.00
Pittsburgh, PA-WV	BEA053C	\$ 0.00
Toledo, OH	BEA056A	\$ 3,600.00
Memphis, TN-AR-MS-KY	BEA073B	\$ 0.00
Baton Rouge, LA-MS	BEA084C	\$ 0.00
Columbia, MO	BEA098E	\$ 0.00
Kansas City, MO-KS	BEA099B	\$ 0.00
Des Moines, IA-IL-MO	BEA100D	\$ 0.00
Topeka, KS	BEA123E	\$ 2,300.00
Economic Area Group 2	EAG002F	\$ 0.00
Economic Area Group 2	EAG002I	\$113,000.00
Economic Area Group 3	EAG003F	\$ 0.00
Economic Area Group 3	EAG003G	\$ 11,000.00
Economic Area Group 4	EAG004F	\$ 0.00
Economic Area Group 4	EAG004I	\$ 0.00
<b>Total</b>		<b>\$129,900.00</b>

Because the sixteen licenses were unsold at the end of Auction No. 18, interim bid withdrawal payments equal to three percent (3%) of the net amount of the withdrawn bids were deducted from any up-front payments or down payments deposited for Intek's account with the Commission.<sup>14</sup> The cumulative sum of these interim bid withdrawal payments is \$51,204.00 as shown in Attachment A to this letter.<sup>15</sup> Therefore, in accordance with Section 1.2104 of the Commission's rules, after applying the interim bid withdrawal payments of \$51,204.00, Intek owes an outstanding balance of \$78,696.00 in connection with the licenses it withdrew high bids on in Auction No. 18.<sup>16</sup>

Sum of Final Bid Withdrawal Payments	\$ 129,900.00
Less sum of Interim Withdrawal Payments	\$ 51,204.00
<b>Total amount due</b>	<b>\$ 78,696.00</b>

As a result, Intek is in debt to the United States in the amount of \$78,696.00, 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. Intek, 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.

<sup>14</sup> See *Auction No. 18 Winning Bidders Public Notice* at Attachment B and C.

<sup>15</sup> *Id.*

<sup>16</sup> To make the final bid withdrawal payment, Intek must submit payment in accordance with the instructions set forth in Attachment B.

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), Intek IS ASSESSED a final bid withdrawal payment in the amount of \$3,600.00 for license BEA0056A, \$2,300.00 for license BEA123E, \$113,000.00 for license EAG002I, \$11,000.00 for license EAG003G, totaling \$129,900.00, as computed in Attachment A.

IT IS FURTHER ORDERED, that no final bid withdrawal payment is due on licenses BEA005C, BEA052B, BEA053C, BEA073B, BEA084C, BEA098E, BEA099B, BEA100D, EAG002F, EAG003F, EAG004F, and EAG004I.

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, the sum of Intek's interim bid withdrawal payments of \$51,204.00 will be applied towards the sum of the final bid withdrawal payments of \$129,900.00 for the four 220 MHz licenses from Auction No. 18, leaving Intek with a total debt to the Commission in the amount of \$78,696.00.

IT IS FURTHER ORDERED that Intek's debt of \$78,696.00 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 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

cc: Marvin E. Marstall, FCC License Manager  
Intek License Acquisition Corporation  
1690 North Topping  
Kansas City, MO 64120

**ATTACHMENT A**

**Phase II 220 MHz Service Auction  
Multi-Auction Withdrawal Payment Report**

DA 02-1649

<b>License Number and Frequency Blk</b>	<b>AUCTION 18 Intek's Withdrawn Gross Bid</b>	<b>AUCTION 24 Gross Winning Bid (or intervening subsequent gross withdrawn bid)</b>	<b>AUCTION 24 Net Winning Bid (or intervening subsequent net withdrawn bid)</b>	<b>Final Withdrawal Payment (Difference between #18 and #24 Net or Gross Bid)</b>	<b>Interim Bid Withdrawal Payment (3% of Intek's withdrawn bid)</b>
BEA 005C	\$2,500.00	\$26,000.00	\$16,900.00	\$0.00	\$75.00
BEA 052B	\$2,500.00	\$3,400.00	\$2,210.00	\$0.00	\$75.00
BEA 053C	\$4,505.00	\$5,400.00	\$3,510.00	\$0.00	\$135.00
BEA 056A	\$6,000.00	\$2,400.00	\$2,400.00	\$3,600.00	\$180.00
BEA 073B	\$6,000.00	\$10,000.00	\$10,000.00	\$0.00	\$180.00
BEA 084C	\$4,700.00	\$5,400.00	\$5,400.00	\$0.00	\$141.00
BEA 098E	\$2,900.00	\$6,200.00	\$4,030.00	\$0.00	\$87.00
BEA 099B	\$7,900.00	\$11,000.00	\$7,150.00	\$0.00	\$237.00
BEA 100D	\$2,500.00	\$4,900.00	\$3,185.00	\$0.00	\$75.00
BEA 123E	\$5,300.00	\$3,000.00	\$3,000.00	\$2,300.00	\$159.00
EAG 002F	\$319,000.00	\$378,000.00	\$245,700.00	\$0.00	\$9,570.00
EAG 002I	\$279,000.00	\$166,000.00	\$166,000.00	\$113,000.00	\$8,370.00
EAG 003F	\$293,000.00	\$298,000.00	\$193,700.00	\$0.00	\$8,790.00
EAG 003G	\$379,000.00	\$368,000.00	\$368,000.00	\$11,000.00	\$11,370.00
EAG 004F	\$203,000.00	\$217,000.00	\$141,050.00	\$0.00	\$6,090.00
EAG 004I	\$189,000.00	\$190,000.00	\$123,500.00	\$0.00	\$5,670.00
<b>Total</b>				\$129,900.00	\$51,204.00

Total Final Bid Withdrawal Payments	\$129,900.00
Less Sum of Interim Withdrawal Payments	- \$51,204.00
<b>Total Amount Due</b>	<b>\$78,696.00</b>

## **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"  
TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, Block 12)  
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.