

DA 99-362

Released: February 19, 1999

VIA FACSIMILE

Timothy E. Welch
Hill & Welch
1330 New Hampshire Avenue, N.W., #113
Washington, D.C. 20036

Re: Confidentiality Request of Graceba Total Communications, Inc.

Dear Mr. Welch:

This letter responds to the February 12, 1999, request for confidential treatment of the information contained in Exhibits C and G of Graceba Total Communication's, Inc.'s (Graceba) FCC Form 175 application for Auction No. 22. Specifically, you request non-disclosure of financial information, submitted in support of Graceba's claim to "very small business" status. You contend that because release of such information could harm the applicant's competitive position in the auction, Exhibits C and G should be withheld from the public in order to protect Graceba's continuing interest in the privacy of its financial information.

We review requests for confidentiality and non-disclosure on a case-by-case basis. Section 0.459 of the Commission's rules requires an entity requesting confidential treatment to submit a statement of the reasons for withholding the materials from inspection and of the facts upon which those reasons are based. Mere conclusory or generalized allegations cannot support a request for nondisclosure. Rather, the submissions must show by a preponderance of the evidence that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552.

We find that your request does not meet the requirements set forth in Section 0.459 of the Commission's rules. Your statements that disclosure of the financial information in Exhibits C and G may result in substantial competitive harm are conclusory, and do not justify withholding from inspection materials that bear upon the applicants qualifications to participate in Auction No. 22 as a "very small business." *See* 47 C.F.R. Sections 90.1017, 90.1021, 90.1023, and 1.2105. Therefore, your request for confidentiality IS HEREBY DENIED.

Sincerely,

Amy J. Zoslov
Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau