

H-3110 - Noncompetitive Leases

TC-1

Table of Contents

Page

<u>Introduction</u>	i
I. <u>Lands Available for Noncompetitive Offer and Lease</u>	1
A. <u>Offers Filed Prior to Competitive Offering of Lands - Presale Offers</u>	1
B. <u>Lease Offers Filed After Competitive Offering of Lands - Postsale Offers</u>	2
II. <u>Lease Offer Size</u>	3
A. <u>Minimum Lease Offer Size</u>	3
B. <u>Maximum Lease Configuration Limits</u>	5
C. <u>Maximum Lease Size</u>	6
III. <u>Description of Lands in Offer</u>	7
A. <u>Postsale Offers Filed During Month of Sale</u>	7
B. <u>Offers Filed After Parcel Integrity Period and During 2-year Period</u>	8
C. <u>Public Domain Minerals</u>	9
1. <u>Surveyed Lands</u>	9
2. <u>Unsurveyed Lands</u>	9
3. <u>Protracted Surveys</u>	9
4. <u>Conforming Land Descriptions</u>	9
5. <u>Lands in Lakebeds and Riverbeds</u>	9
6. <u>Conversion of Unpatented Oil Placer Mining Claims</u>	10
D. <u>Acquired Lands Minerals</u>	11
1. <u>Surveyed Lands</u>	11
2. <u>Unsurveyed Lands</u>	11
3. <u>Acquisition or Tract Number</u>	13

4. Map Requirements	14
E. Accreted Lands	15
F. Conflicting Description Among Copies of Offer	16
1. Controlling Offer Form	16
2. Unsurveyed Land Description	16
IV. Lease Offer Requirements	17
V. Rental Deficiency	21
A. Lease Issuance After Deficiency Paid	21
B. Rental Change Due to Acreage Miscalculation	22
C. Rental Change Due to Resurvey and Acreage Adjustment	23
VI. Priority of Offer	25
A. Presale Offers	25
B. Postsale Offers	26
VII. Noncompetitive Presale Offers	29
A. Noncompetitive Presale Offers Filed on Public Domain or Acquired Lands Minerals	29
B. Priority Established	30
C. Action on Presale Lease Offer	31
VIII. Noncompetitive Postsale Offers Filed Day After the Sale	37
A. Action for Receiving Offer	37
B. Action for Processing Offer for Approval	41
C. Rejection of Nonpriority Offers	47
D. Statistical Reporting Requirements	49
IX. Noncompetitive Postsale Offers Filed During Remainder of Parcel Integrity Period/Month of Sale	51
A. Action for Receiving Offer	51
B. Action for Processing Offer for Approval	55
C. Rejection of Nonpriority Offers	61

X. Noncompetitive Postsale Offers Filed After Parcel Integrity Period and During 2-year Period	63
A. Action for Receiving Offer	63
B. Action for Processing Offer for Approval	67
C. Rejection of Nonpriority Offers	73
XI. Noncompetitive Combined (Presale and Postsale) Offers Filed	75
A. Noncompetitive Offers - Public Domain or Acquired Lands Minerals	75
B. Action for Receiving Offer	76
C. Action for Processing Offer for Approval	82
D. Rejection of Nonpriority Offers	88
XII. Lease Terms	89
A. Duration of Lease	89
B. Dating of Leases	89
XIII. Withdrawal of Offer	91
A. Requirements	91
1. Presale Offer Under 43 CFR 3110.1(a)(1)	91
2. Postsale Offer Under 43 CFR 3110.1(b)	91
3. Partial Withdrawal - Public Domain Minerals Offer	91
B. Action on Offer Withdrawal	92
XIV. Amendment to Lease	95
A. Processing an Amendment to a Lease	95
B. Processing a Separate Lease in Lieu of a Lease Amendment	96
TC-3	
XV. Noncompetitive Future Interest Offers	99
A. Application	99
B. Action for Receiving Application	100
C. Action on Lease Offer	102

[Glossary of Terms](#) (See also Handbook 3100-1)

Illustrations

1. Public Domain Minerals Land Description Diagram for Lower 48 States and for Alaska
2. Format for Decision Requesting Partial Withdrawal of Excess Acreage
3. Public Domain Noncompetitive Oil and Gas Lease Offer (Form 3100-11)
4. Acquired Land Noncompetitive Oil and Gas Lease Offer (Form 3100-11)
5. Format for Decision Requesting Additional Rental for a Minimal Deficiency
6. Format for Decision for Errors Resulting from Miscalculation of Acreage by BLM
7. Format for Notice Posted for the Record of Omitted Noncompetitive Offer Advising Parties that a Reselection May be Held
8. Format for Notice Posted Announcing Drawing to Include Omitted Offer and Describing Procedures for the Reselection Process
9. Format for Letter Informing Lessee of Scheduled Reselection to Include Omitted Offer
10. Format for Decision for Lease Held for Cancellation Requesting Evidence of a Bona Fide Purchaser Prior to Date of Discovery of Omitted Offer
11. Format for Decision Requiring Evidence of Joining an Agreement
12. Format for Request to Field Office Operations for Unit Joinder Information
13. Format for Serial Register Page/Case Abstract Entering Issued Presale Noncompetitive Lease into ALMRS Case Recordation
14. Format for Notice to Lessee Concerning Mineral Leasing Act Section 2(a)(2)(A) for Attachment to Lease Form 3100-11
15. Format for Notice Requesting Offeror Signature on a Revised or Changed Stipulation

16. Format for Accounting Advice for Public Domain Noncompetitive Lease

Issuance

17. Format for Decision Rejecting Offer Not Receiving Priority

18. Format for Reporting Requirements to Washington Office (610) for

Noncompetitive Lease Offers Filed On the Day After the Sale

19. Format for Serial Register Page/Case Abstract Entering Issued Postsale

Noncompetitive Lease into ALMRS Case Recordation

20. Format for Decision of Offer to Lease Rejected

21. Format for Decision of Offer to Lease Rejected in Part

22. Format for Notice of Offer Suspended

23. Format for Notice of Offer Suspended in Part

24. Format for Oil and Gas Lease Amendment

TC-4

25. Format for Title Report Request (Form 3100-7)

26. Acquired Lands Noncompetitive Future Interest Oil and Gas Lease

(Form 3100-11)

27. Format for Accounting Advice to Establish Future Interest Lease in

MMS-DMD When Advance Rental Paid

Appendices

1. Listing of Treasury Symbols for Mineral Lease Rental and Bonus Monies,

Including Forest Service Acquired Lands Minerals

2. Listing of ALMRS (Case Recordation) Data Element (DE) 1775 and 2910

Action Codes Applicable to Case Types 311121, 311122, 311123, and 31124

for Handbook 3110-1

Index by Keywords

i

Introduction

This Handbook Section provides procedures in accordance with the Mineral Leasing Act of 1920, including the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (Reform Act), enacted on December 22, 1987, for noncompetitive oil and gas leasing of eligible lands (Automated Land and Mineral Record System (ALMRS) Case Recordation in the lower 48 States/Records System Release 1.0 in Alaska Case Types 311121 and 311122). Guidelines concerning the adjudication and issuance of future interest noncompetitive leases (ALMRS Case Types 311123 and 311124) also are provided. This Handbook should be used in conjunction with BLM Manual Section 3110.

Under the Reform Act, which significantly changed the BLM's oil and gas leasing program procedures, lands cannot be leased until they are first offered competitively at an oral auction (see Manual Section 3120 and Handbook 3120-1).

This Handbook Section is not intended for use in processing offers filed before the Reform Act. Guidelines for processing "grandfathered" noncompetitive over-the-counter oil and gas lease offers filed prior to

December 22, 1987, are found in BLM Manual Section 3111 and Handbook 3111-1.

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Keywords

I. Lands Available for Noncompetitive Offer and Lease

A. Offers Filed Prior to Competitive Offering of PRESALE

Lands - Presale Offers OFFERS

An offer for a noncompetitive oil and gas lease may be filed for available lands prior to a competitive sale and after January 2, 1989, except for lands that are in the one-year period commencing from the date of expiration, termination, relinquishment, or cancellation of a lease, or that are included in an officially **posted** Notice of Competitive Lease Sale (see Glossary of Terms). A preliminary sale parcel list, which may be made available in the Public Room in some BLM State Offices, is **not** considered to be an officially posted sale notice. For expired, terminated, relinquished, and cancelled leases, the one-year period begins on the actual date of lease expiration, termination, relinquishment, or cancellation,

and not on the date when the records have been noted. Any noncompetitive offer filed during the one-year period following termination, expiration, relinquishment, or cancellation of a lease shall **not** be held in abeyance or pending status to await the end of the one-year period, but shall be rejected as an improper presale offer.

2

Keywords

B. Lease Offers Filed After Competitive Offering of POSTSALE

Lands - Postsale Offers OFFERS

1. Beginning on the first business day following the last day of the competitive oral auction, only lands that have been offered competitively under 43 CFR Part 3120, and for which no bids were received, shall be available for a period of 2 years for noncompetitive leasing (see Glossary of Terms). Although some BLM State Offices provide a drop box on the day of the auction for the filing of noncompetitive offers at the conclusion of the sale for those parcels that received no bid (particularly if the auction is held in a city/State other than where the BLM State Office is located), all such offers placed in the drop box shall be considered as simultaneously filed during the first business day following the close of the auction. A noncompetitive lease may be issued for lands contained in such parcels in response to a complete and proper offer filed during this 2-year noncompetitive leasing period.

2. If a noncompetitive lease issues from a LANDS IN
postsale offer, and the lease later terminates, is TERMINATED,
relinquished, or is cancelled at any time during the RELINQUISHED,
2-year period from the date of the oral auction, the OR CANCELLED
lands contained in such lease are available again only by POSTSALE LEASE
competitive leasing under 43 CFR Part 3120. In accordance AVAILABLE
with the Reform Act, such lands are not available for AGAIN ONLY BY
noncompetitive leasing under 43 CFR 3110.1(a) during any COMPETITIVE
remaining portion of the 2-year period. LEASING PROCESS

3

Keywords

II. Lease Offer Size

A. Minimum Lease Offer Size

Where the lands have been surveyed under the rectangular PUBLIC DOMAIN
survey system or are within an approved protracted survey, MINIMUM
an offer for public domain minerals may not include less LEASE SIZE
than 640 acres or one full section, whichever is larger,
in the lower 48 States. In Alaska, offers for public
domain minerals may not be less than 2,560 acres or four
full contiguous sections, whichever is larger. This
minimum lease offer size is required except where the
offer includes all available lands within a section and
no contiguous lands are available for lease in an adjoining
section. Otherwise, the offer must be rejected. (See 43
CFR 3110.3-3(a).)

The term "contiguous lands" means two parcels of land CONTIGUOUS
within the same section, in adjoining sections, or in LANDS

adjoining townships having a common boundary. Cornering is **not** considered to be "contiguous lands" (see Illustration 1).

The leasing regulations provide an exception to the minimum 640-ACRE acreage requirement where the offer includes all available MINIMUM RULE lands within the section and no contiguous lands are "available." Two categories of lands are "available," presale-type lands (43 CFR 3110.1(a)(1)) and postsale-type PRESALE-TYPE AND lands (43 CFR 3110.1(b)). The regulations at 43 CFR 3110.1 POSTSALE-TYPE allow, but do not require, a lease offeror to include LANDS AVAILABLE presale- and postsale-type lands in the same noncompetitive lease offer. Therefore, any noncompetitive lease offer that contains: (1) the minimum acreage of presale-type lands only; or (2) the minimum acreage of postsale-type lands only; or (3) the minimum acreage with a combination of some presale-type lands and some postsale-type lands, satisfies the minimum acreage requirement of the regulations at 43 CFR 3110.3-3(a). Inclusion of lands from both categories of "available" lands in one lease offer, however, will not necessarily result in issuance of a single lease, as discussed below.

The exception for offers containing less than the minimum acreage shall be applied as follows:

1. If the offer contains all presale-type lands PRESALE in one full section (four full contiguous sections in OFFERS Alaska) and no contiguous presale-type lands are available, the offer satisfies the exception even if postsale-type

lands are available in the section or are contiguous.

4

Keywords

2. The same applies to an offer containing all POSTSALE postsale-type lands in one full section (four full OFFERS contiguous sections in Alaska) even if presale-type lands are available in the section or are contiguous; and,

3. If the offer contains all the presale-type COMBINED and postsale-type lands in one full section (four full OFFERS - contiguous sections in Alaska) and no contiguous lands in PRESALE AND either category are available, the offer satisfies the POSTSALE exception. LANDS

No minimum lease offer size pertains to an acquired lands ACQUIRED LANDS minerals noncompetitive oil and gas lease offer. MINERALS MINIMUM LEASE SIZE

No minimum size requirement pertains to the filing of a CLASS III LEASE petition for a Class III reinstatement for issuance of a REINSTATEMENT noncompetitive lease for oil and gas covering an abandoned MINIMUM SIZE oil placer mining claim under the provisions of 43 CFR 3108.2-4. (See Manual Section 3108.24 and Handbook 3108-1.)

5

Keywords

B. Maximum Lease Configuration Limits

The lands in an offer for public domain minerals shall PUBLIC DOMAIN be entirely within an area of 6 miles square or within MAXIMUM LEASE an area not exceeding six surveyed sections in length CONFIGURATION

and/or width measured in cardinal directions.

An offer to lease acquired lands minerals may exceed the ACQUIRED LANDS 6-mile square limit if: (1) the lands are not surveyed MINERALS under the rectangular survey system of public land surveys MAXIMUM LEASE and are not within the area of the public land surveys; CONFIGURATION and (2) the tract desired is described by the acquisition or tract number assigned by the acquiring agency **and** less than 50 percent of the tract lies outside the 6-mile square area. More than one tract may be included in the lease offer. However, less than 50 percent of only one tract in the offer may extend outside the 6-mile square area. (See Excelsior Exploration Corp., 91 IBLA 76 (1986).)

6

Keywords

C. Maximum Lease Size

For either public domain or acquired lands minerals, an MAXIMUM LEASE offer may not include more than 10,240 acres. SIZE

If an offer exceeds the 10,240-acre maximum by not more LEASE OFFER than 160 acres, the offeror shall be granted 30 days from EXCESS ACREAGE notice, i.e., from receipt of the decision of the excess, to withdraw the excess acreage from the offer, and priority will be retained. The offer must be rejected and priority lost if the excess is not withdrawn (see Illustration 2).

If an offer exceeds the 10,240-acre maximum by more than 160 acres, the offer must be rejected. (See 43 CFR 3110.3-3(c).)

7

Keywords

III. Description of Lands in Offer

This portion of Handbook 3110-1 provides guidelines for the LAND proper description of lands in noncompetitive lease offers. DESCRIPTION

A. Postsale Offers Filed During Month of Sale

From the first day following the end of the competitive PARCEL NUMBER sale until the end of that same month (parcel integrity DESCRIPTION period; see Glossary of Terms), a noncompetitive lease offer for a parcel included in the sale for which no bid was received must be for the entire parcel, and must describe the lands by the single parcel number appearing in the sale notice. If a legal description also is included and a discrepancy exists between the parcel number and the legal description, the parcel number shall govern.

8

Keywords

B. Offers Filed After Parcel Integrity Period and During 2-year Period

Any postsale lease offer made after the end of the month in LEGAL LAND which a sale is held cannot be filed by a parcel number. DESCRIPTION Such a postsale offer must be filed by the legal land AFTER END OF description in accordance with 43 CFR 3110.5-2 and PARCEL INTEGRITY 3110.5-3. Use of the parcel number by itself during the PERIOD remainder of the 2-year period shall result in rejection of the offer. An offer filed during this timeframe may include all or a portion of a parcel or may include a combination of parcels and must be filed in accordance with

43 CFR 3110.3-3 with respect to minimum lease offer size.

If any lands in the parcel are subject to a proper offer filed under 43 CFR 3110.1(a)(1) that was filed prior to the official posting of the Notice of Competitive Lease Sale which includes the described lands, and if the parcel receives no bid at the auction, such a presale offer shall have priority for issuance of a lease on the affected lands over any postsale offer filed after the oral auction.

9

Keywords

C. Public Domain Minerals

1. Surveyed Lands. If the lands have been PUBLIC DOMAIN surveyed under the rectangular system of the public land SURVEYED LAND surveys, the lands must be described by legal subdivision, DESCRIPTION section, township, range, and (if needed) meridian. The smallest legal subdivision that may be included in an offer is a quarter-quarter section (40 acres), unless the offer is for a lot or only a portion of a quarter-quarter section is available.

2. Unsurveyed Lands. Lands not surveyed and/or PUBLIC DOMAIN protracted under the rectangular system of surveys must be UNSURVEYED LAND described by metes and bounds as set forth in 43 CFR DESCRIPTION 3110.5-2. A description by legal subdivision that excludes a portion of the subdivision described by metes and bounds is sufficient to satisfy the regulation governing land description of surveyed public domain.

3. Protracted Surveys. Where protracted surveys PUBLIC DOMAIN

have been approved and the effective date thereof has been PROTRACTED published in the Federal Register, all offers to lease SURVEY LAND lands shown on the protracted surveys, filed on or after DESCRIPTION the effective date, must describe the lands by legal subdivision, section, township, range, and (if needed) meridian.

4. Conforming Land Descriptions. Where CONFORMING LAND unsurveyed lands covered by pending offers are surveyed DESCRIPTIONS prior to lease issuance, the description of such lands must conform to the approved protracted or public land survey, whichever is appropriate. Likewise, the description of lands in an existing lease must be conformed by the BLM to a subsequent resurvey or amended protraction survey, as may be appropriate.

5. Lands in Lakebeds and Riverbeds. Lands in LANDS IN lakebeds and riverbeds are available for leasing if the LAKEBEDS AND waters were determined to have been nonnavigable at the RIVERBEDS time of admission of the State into the Union, and the United States is the owner of the abutting uplands, or the lands were patented with a reservation of the oil and gas to the United States. The lands must be described by metes and bounds in the same manner as other unsurveyed lands.

(See 43 CFR 3110.5-3(c).)

10

Keywords

If the United States is the riparian or upland owner bordering a nonnavigable river, the extent of ownership

extends to the medial line of the river. If ownership includes both sides of the riverbed, the United States administers the entire acreage across the river. If the U.S. mineral ownership is divided, i.e., 50 percent on one side and 100 percent on the opposite side, a separate metes and bounds description is required for leasing the portions that are affected by the fractional interests.

Federal leases may be issued for beds of lakes and rivers that invade school sections (e.g., sections 16 and 36 in some States) if the waters were nonnavigable at the time of admission of the State into the Union and if the State has used such lake or river beds as deficiency base for lieu selections. Leases cannot be issued for such beds if the State has not used the bed as base for lieu selections. If it has been determined that the State used the beds of nonnavigable lakes for lieu selection, the BLM State Office must assert its rights by preparing a letter or notice to the State Government Lands Department. However, if the State used the beds of nonnavigable rivers for lieu selection, no further action is necessary.

6. Conversion of Unpatented Oil Placer Mining CLASS III

Claims. A petition for a noncompetitive lease under 43 CFR REINSTATED 3108.2-4 must conform to the requirements of 43 CFR 3110.5 LEASE - by specifying the proper description of the lands involved CONFORM LAND in the abandoned unpatented oil placer mining claim. DESCRIPTION

D. Acquired Lands Minerals

1. Surveyed Lands. If the lands have been ACQUIRED LANDS surveyed under the rectangular system of public land MINERALS surveys, the lands must be described by legal subdivision, SURVEYED LAND section, township, range, and meridian. In some BLM State DESCRIPTION Office jurisdictions, however, there may be only one meridian within a given State. In such a case, clarity of the description can be achieved without inclusion of the meridian, and rejection would not result from its omission.

Where the lease offer description cannot be conformed to the public land surveys, any boundaries of the offer that do not conform must be described in the offer by metes and bounds giving courses and distances between the successive angle points with appropriate ties to the nearest existing official survey corner (see 43 CFR 3110.5-3(b)). If the desired lands in the acquired tract are not surveyed under the rectangular system of public land surveys but are within an area of public land surveys, the lands must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected, if possible, with an official corner of the public land surveys.

2. Unsurveyed Lands. If the lands have not been ACQUIRED LANDS surveyed under the rectangular system of public land MINERAL surveys, the lands must be described in the offer as in the UNSURVEYED LAND deed or other document by which the U.S. acquired title to DESCRIPTION the lands or minerals. (See 43 CFR 3110.5-3(b) and (c).)

The acreage in some tracts acquired by the U.S. may be larger than that permitted to be included in a single lease, or a portion of the minerals in the acquired tract may not be available for leasing. In that event, the available land must be described in the offer by courses and distances between successive angle points on its boundary, tying by course and distance into the description in the deed or other document by which the U.S. acquired title to the land. Enclosure with the offer of a clear copy of the deed or other acquiring document, as referenced in the offer as to the applied for land description, is acceptable although not required. Without loss of priority, the applicant subsequently may be required to submit the deed or conveyance document if it is needed to complete the processing of the offer. If the offeror submits a clear copy of the deed in lieu of providing a land description in the offer and clearly identifies the applied for lands on the deed, it is not necessary to require the offeror to redescribe in the offer that portion of the boundary contained and described in the deed by metes and bounds.¹²

Keywords

If an error exists in the land description on the deed or DEED OR conveyance document, the offeror cannot be held responsible CONVEYANCE for the error or its effect on the validity of the land DOCUMENT description in the lease offer. The offeror need not ERROR IN LAND correct any such error. If an error in the deed exists and DESCRIPTION

the offeror recognizes the error and does compensate for the error in the deed description with an accompanying explanation in the offer description, the offer shall be acceptable, although further clarification may be required by the BLM State Office without loss of priority to the offeror. Because the BLM must rely on the deed, the offeror must note in the offer that such an error has been corrected. If the offeror fails to do so, or includes in the offer an erroneous correction to the deed description that does not conform to the land description in the deed, the offeror is to be allowed 30 days, without loss of priority, to furnish proper corrections to the deed description and to explain how, in turn, the corrections affect non-deed portions of the land description.

If an error is discovered in the land description for an LAND offer filed on a portion of an acquired tract, the BLM DESCRIPTION shall allow the offeror 30 days in which to correct the ERROR IN OFFER error, without loss of priority. The time may be extended by the BLM authorized officer for a reasonable period, to allow the offeror to demonstrate that the error was in the deed or conveyance document or solely attributable to it.

If this cannot be shown, the offer must be rejected.

An offeror is responsible for furnishing sufficient rental as required by 43 CFR 3103.2-1(a), or the offer shall be rejected.

If an offeror for an entire acquired lands minerals tract DEED OR submits a copy of the deed with the offer and also CONVEYANCE

redescribes in the offer the lands in the deed, and in DOCUMENT
doing so makes an error in transcription, the requirement SUBMITTED
for an acceptable description is satisfied because the copy
of the deed is included with the offer.

13

Keywords

For lands not within a rectangular survey, the deed
description is to be relied on to the extent possible when
less than the entire acquired tract is applied for in the
lease offer. Any new boundary created to separate the part
of the tract applied for from the rest of the tract is to
be described by metes and bounds, giving courses and
distances between successive angle points and tied to the
deed, as appropriate. The tie-ins must be properly
described by courses and distances. The offeror is
responsible for identifying the boundary of the lands
applied for in the offer. It is not necessary to
redescribe the deed portion of the boundary in the offer
if a copy of the deed is included and the offer is clearly
noted to indicate that the applied-for lands are as in the
deed and the tie-ins are made clear in the offer or the
attachment to the offer. If errors exist in the land
description, the error must be shown to be in the deed or
solely attributable to it, or the application will be
rejected.

Meander lines are not acceptable in a land description MEANDER
unless and except as they appear in the deed. In certain LINES

instances on nonnavigable bodies of water, a meander line could become a fixed boundary. In such a case, a description in the offer of this fixed boundary as shown on the survey plat may be needed in order to define the leasable acreage.

3. Acquisition or Tract Number. Where the ACQUISITION acquiring agency has assigned an acquisition or tract OR TRACT number covering the lands applied for, the BLM authorized NUMBER officer may require that number in addition to any description otherwise required in the offer without loss of priority to the offeror. If the authorized officer determines that the acquisition or tract number, together with identification of the State and county, constitutes an adequate description, the authorized officer may allow the description in this manner in lieu of other descriptions required in the offer.

For the present, unit numbers, tract numbers, and parcel numbers shall all be considered acquisition numbers within the meaning of the regulations. Failure to include line numbers, case numbers, or any other such designations in the offer shall be considered a curable defect and shall not result in loss of priority of the offer. In any case, if the offeror submits written documentation that an acquisition number was requested from the acquiring agency and the offeror was advised that none existed, the offer shall be deemed to have met the regulatory requirements.¹⁴

Keywords

4. Map Requirements. Offers submitted in the MAP manner as discussed in Sections III.D.2 and 3, above, must REQUIREMENTS be accompanied by three copies of a map upon which the desired lands are clearly marked, showing the location of the lands with respect to the administrative unit or project of which they are a part. Failure to submit the maps, or sufficient quantities of the map, is a curable defect and priority of the offer is retained. Allow a 30-day compliance period for correct of this curable defect. Provided the acquisition or tract number is shown when required, if the map is in error (any or all copies) and the land description of the offer is proper or, conversely, when the land description is flawed but the description can be clearly noted based on the map and its annotations, the offeror has 30 days to correct the error or map omission.

When applying for any lease for acquired lands minerals, the offeror need not apply for only those lands within the acquired tract that are available for leasing. It is the responsibility of the lessor (BLM) to determine which lands within the acquired tract are available, to describe them on the lease, and reject the remaining. Lessees are responsible only for properly describing the outer boundary of the applied-for lands.

15

Keywords

E. Accreted Lands

The description of lands by legal subdivision, including ACCRETED lots, does not include any land that may have accreted to LANDS the legal subdivision or lot. The accreted land must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract or subdivision to which the land has accreted.

16

Keywords

F. Conflicting Description Among Copies of Offer CONFLICTING DESCRIPTION

1. Controlling Offer Form. If the original and ON COPIES two copies of the offer form are not identical, that form OF OFFER marked with the date and time of receipt in the proper BLM office is controlling. The BLM Manual Section 1274.12 states: "Date and Time Stamping. The exact date and time received are stamped on the original of the filing that becomes the case file copy. If applicant supplies an extra copy, it may be date and time-stamped and returned to applicant." The correct legal description of the leased lands is to be inserted on all copies of the lease prior to execution (signature) by the BLM authorized officer.

2. Unsurveyed Land Description. If the land description provided by the offeror for unsurveyed lands is acceptable but inappropriately described, i.e., is not described by the current BLM standards, the offer is to be

properly redescribed by the BLM before approval for lease issuance.

17

Keywords

IV. Lease Offer Requirements

The lease offer shall be made on the current BLM-approved CURRENT LEASE form (Form 3100-11), or on unofficial copies of the current OFFER FORM form (see Illustration 3). Copies shall be exact reproductions on one page of both sides of the official approved form, without additions, omissions, or other changes, or advertising. The original copy of each offer must be typewritten or plainly printed in ink and manually signed in ink by the offeror or the offeror's duly authorized agent. The offer shall be accompanied by the first year's advance rental and a nonrefundable filing fee of \$75.

The original and two copies of each offer to lease with ORIGINAL AND each copy showing evidence of having been signed shall be TWO COPIES filed in the proper BLM State Office. Only the original of OF LEASE FORM the offer must be actually signed; the other two copies may REQUIRED show carbon reproductions or duplications of the signature.

The offer should be dated, but failure to date is not cause for rejection. The critical date of an offer is the date that it is filed in the proper BLM office.

The mineral status of the lands described by the offeror MINERAL STATUS in Item 2 on the lease offer form will control the type of BOX ON OFFER lands, either public domain minerals or acquired lands FORM - PUBLIC minerals, being requested. If the lands described in DOMAIN OR

Item 2 all have the same mineral status, and no box is ACQUIRED LAND checked, both boxes are checked, or the wrong box is MINERALS checked, the offer is to be viewed as acceptable with the BLM correcting the mineral status boxes. If, however, the land description in Item 2 on the form is a mix of public domain minerals and acquired lands minerals, and only one box is checked, both boxes are checked, or neither box is checked, the offer must be returned for correction with a loss of priority in accordance with 43 CFR 3110.4.

A lease offer may not include both public domain and IDENTIFICATION acquired lands minerals. There are instances when the OF ACQUIRING surface is acquired lands but contains public domain AGENCY minerals. The agency from which consent to lease is required should be named by the offeror on the form (see Illustration 4, Page 1, Item 2). However, inclusion of the agency information on the lease offer form is not mandatory for a noncompetitive offer and will not result in a loss of priority. (See Manual Section 3110.43A4.)

Keywords

Curative submissions will be accepted before final action CORRECTIONS OR is taken on a lease offer if the offeror amends, modifies, AMENDMENTS TO or takes other measures to correct or complete a defective OFFER BY filing. For example, the offeror may discover that a OFFEROR typographical error was made by describing the land as the W2E2, where the only land available for lease is the E2E2. If the offer has not yet been rejected by the BLM authorized officer, the offeror may file an amendment by

filing a complete new offer with the lease offer form marked "AMENDED OFFER." Priority shall be established when the amended offer is filed. No new filing fee needs to be submitted (see Departmental Decision A-30741, William A. Stevenson, May 29, 1957).

As ruled by the Interior Board of Land Appeals (IBLA) in Gian R. Cassarino, 78 IBLA 242, (91 I.D. 9 (1984)), if an offer has been rejected by the BLM, an offer cannot be cured or resuscitated with a new priority by the submission of new material.

The Mineral Leasing Act authorizes the issuance of leases WHO MAY HOLD to citizens of the United States, associations (including LEASES partnerships and trusts) of such citizens, and corporations organized under the laws of the U.S. or any State or Territory thereof (see 43 CFR 3102.1, Manual Section 3102, and Handbook 3102-1). A lease offer may be received showing more than one name with a percentage of unequal portions, e.g., John Doe with 60 percent and Jane Doe with 40 percent interest. An offer for a lease by two or more persons is prima facie an offer by an "association" within the meaning of Section 27 of the Mineral Leasing Act (see Edward Lee, 515 I.D. 299 (1925)). Thus, the offer is acceptable and is to be treated as an association.

However, **both** parties must sign the offer Form 3100-11 certifying as to qualifications by each to hold the lease as members of the association.

Another means of holding a lease is by joint tenancy, JOINT TENANTS

whereby the offerors call themselves "John Doe and Jane Doe, Joint Tenants." In this situation, the BLM recognizes each tenant as owning a proportionate share of the lease, as if each were a co-lessee. Again, each person must sign the lease offer Form 3100-11. (See Handbook 3102-1 and Turner C. Smith, Jr., Signe Smith, 89 I.D. 386 (1982).)

19

Keywords

An offer received from an entity identified as "John Doe SOLE and Jane Doe, d/b/a Doe Enterprises" is indication of a PROPRIETORSHIP sole proprietorship. A sole proprietorship may **not** hold a MAY NOT HOLD lease. However, in the case of "Doe Enterprises," if the A LEASE lease offer Form 3100-11 was signed by **both** John Doe and Jane Doe, the offer is acceptable since it is possible to determine the full names of the offerors; the "Doe Enterprises" is surplusage (see McClain Hall, Arthur R. Frank, 61 IBLA 202 (1982)).

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21

Keywords

V. Rental Deficiency

A. Lease Issuance After Deficiency Paid

If the first year's advance rental for an offer is RENTAL deficient by not more than 10 percent or \$200, whichever DEFICIENCY is less, the offer is acceptable and retains its original priority date, all else being regular. The rental deficiency shall be paid before the lease is issued. The

full payment of the first year's advance rental is required prior to issuance of the lease by the BLM in order to ensure that a valid lease is entered in the Minerals Management Service (MMS) Data Management Division (DMD) automated system. That is, do **not** send the lease account information to the MMS-DMD until the **full** first year's advance rental has been received.

When the first year's rental is deficient by not more than RETAIN 10 percent or \$200, whichever is less, prepare a decision \$75 FILING FEE advising that the rental deficiency must be paid within 30 days. If the deficient first year's rental is not paid within the time allowed, the offer is to be rejected without further notice with the \$75 filing fee retained (see Illustration 5). Following the 30-day appeal period, if the lands were offered in a competitive lease sale and no bid was received and there are no other remaining offers, the lands remain available for noncompetitive leasing for the remainder of the 2-year period.

There may be some instances where a lease with a rental RENTAL PAYMENT deficiency has been issued under penalty of cancellation if RETURNED IF the rental deficiency is not timely paid in response to a DEFICIENCY NOT decision. However, in Arden R. Grover, John R. Schumacher, TIMELY PAID AFTER 73 IBLA 308 (1983), the IBLA ruled that the offer should LEASE ISSUANCE have been rejected and the rental returned in compliance AND CANCELLATION with Section 304(c) of the Federal Land Policy and Management Act because the lessees did not derive any benefit from possession of the lease.

KeywordsB. Rental Change Due to Acreage Miscalculation

When an increase in the parcel acreage results from a ACREAGE miscalculation by the BLM, causing the parcel acreage to be MISCALCULATION greater than that indicated in the Notice of Competitive BY BLM Lease Sale, send a decision to the lessee to request the additional monies to meet the minimum rental amount of \$1.50 per acre or fraction thereof (see Illustration 6).

The decision shall include a provision that allows the lessee to request a rejection of the offer if the lessee does not want the lease due to the modified acreage. If the lessee requests rejection of the offer, a full refund of the rental **and** the \$75 filing fee shall be authorized by the BLM since the error was the fault of the Government. The regulations specify in 43 CFR 3103.2-1(b) that if the acreage in the Notice of Competitive Lease Sale is incorrectly indicated, payment of the additional rental based on the error is curable within 15 calendar days of receipt of the BLM notification.

KeywordsC. Rental Change Due to Resurvey and AcreageAdjustment

When a corrected acreage is due to a resurvey, any ACREAGE increase or decrease in the acreage shall require a change ADJUSTMENT in the rental amount, beginning with the **next** lease DUE TO

anniversary date. If the resurvey decreased the acreage, RESURVEY no rental refund shall be made since the acreage in the parcel when the competitive sale was held was based on the "correct" survey/status of the lands at that time and was not a BLM error when the oral auction was held. Similarly, if the resurvey increased the acreage, no additional first year's advance rental shall be requested. In such cases, transmit an accounting advice to the MMS-DMD to reflect the changed lease acreage because of the resurvey, to ensure that the MMS-DMD issues the courtesy billing notice for the changed acreage for the next annual rental cycle. The acreage for the parcel as indicated in the Notice of Competitive stands for the entire 2-year period unless a public notice is issued advising the public of the corrected acreage. Such a notice is to be posted in the BLM State Office Public Room for a period of at least 45 days.

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25

Keywords

VI. Priority of Offer

A. Presale Offers

If any lands in a parcel when officially posted for PRESALE OFFER competitive sale are subject to a proper presale PRIORITY noncompetitive offer and the parcel receives no bid at PROCEDURE the oral auction, the presale offer shall have priority for issuance of a lease on the affected lands over any

offers filed subsequent to the oral auction.

If more than one presale offer is filed on the same lands, the priority of such offers shall be as of the date and time of filing as specified in 43 CFR 1821.2-3(a).

26

Keywords

B. Postsale Offers

1. Any postsale noncompetitive offers that are POSTSALE received during the first business day following a OFFER competitive sale for a parcel that received no bid at the PRIORITY sale shall be deemed simultaneously filed, and shall earn PROCEDURE priority in accordance with a public drawing as specified in 43 CFR 1821.2-3(b).

2. If a postsale noncompetitive offer was OFFER OMITTED properly filed during the first business day following the FROM DRAWING oral auction, but was inadvertently omitted from the drawing held for that parcel, a new drawing must be held to include the omitted offer. The new drawing must consist of the omitted offer and blank offers equal to the number of offers that were included in the first drawing. Post a notice in the State Office Public Room to serve notice of the omitted offer and to notify interested parties of the pending reselection (see Illustration 7).

2a. If No Lease Has Been Issued. Prepare a RESELECTION notice indicating the specific date the reselection will be PROCESS FOR held. Describe in the notice the process that will be used OMITTED OFFER to determine priority as a result of the reselection due to WHEN NO LEASE

the omitted offers. Post the notice in the State Office HAS YET ISSUED

Public Room. Also, file a copy of the notice with each

offer affected by the pending reselection (see Illustration

8). If no lease had been issued when the omitted offer was

discovered and the omitted offer is selected, the omitted

offer shall displace the offer that was selected in the

original drawing. If the omitted offer is not selected in

the reselection, the results of the original drawing shall

stand.

27

Keywords

2b. Lease Has Been Issued. Prepare a RESELECTION

notice indicating the specific date the reselection will be PROCESS FOR

held. Describe in the notice the process that will be used OMITTED OFFER

to determine priority as a result of the reselection due to WHEN LEASE HAS

the omitted offers. Indicate in the notice that the lease ALREADY ISSUED

that already has been issued may be subject to cancellation

as a result of the reselection process. Post the notice in

the State Office Public Room. Also, file a copy of the

notice with each offer affected by the pending reselection

(see Illustration 8). Prepare a letter to the lessee

explaining the situation (see Illustration 9), enclosing a

copy of the notice. Send the letter via certified mail.

If the omitted offer is not selected in the reselection,

the results of the original drawing shall stand. However,

if the omitted offer is selected in the new drawing, it

shall displace the existing offer/issued lease that had

priority in the original drawing, excluding any rights held by a bona fide purchaser under the Act of September 21, 1959 (30 U.S.C. 184(h)(2) (1982)). (See Manual Section 3108.4.) Prepare a decision to cancel the lease issued as a result of the original drawing, allowing 30 days for evidence to be submitted that a bona fide purchaser existed prior to the discovery of the omitted offers (see Illustration 10). If evidence of a bona fide purchaser is not submitted within the time allowed, cancel the lease without further notice, and authorize a refund of the first-year's advance rental.

3. If more than one postsale noncompetitive lease offer is filed on the same lands subsequent to the first business day after the sale and during the remainder of the 2-year period, the priority of such offers shall be as of the **date and time** of filing as specified in 43 CFR 1821.2-3(a).

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29

Keywords

VII. Noncompetitive Presale Offers

A. Noncompetitive - Presale Offers Filed on Public PRESALE

Domain or Acquired Lands Minerals OFFERS FILED

UNDER 43 CFR

This portion of the Handbook provides guidelines for the 3110.1(a)(1) proper description of lands in noncompetitive presale oil and gas lease offers (see Glossary of Terms). Regulation

43 CFR 3110.1(a)(1) specifies that after January 2, 1989, a noncompetitive (presale) offer may be filed on unleased lands except for: (1) those lands that are in the one-year period commencing upon the expiration, termination, relinquishment, or cancellation of the previous lease(s) containing the lands, and (2) those lands included in an officially posted Notice of Competitive Lease Sale. (See Section I, above, for further criteria concerning such presale offers.)

Noncompetitive presale offers shall be exposed to competitive bidding under 43 CFR Part 3120 and, if no bid is received, a noncompetitive lease shall be issued to the presale offeror, all else being regular.

30

Keywords

B. Priority Established PRIORITY

ESTABLISHED

The priority of a presale offer received shall be determined as of the time and date the offer is filed in the proper BLM State Office. Simultaneously filed presale offers are those filed on some or all of the same lands, and when such offers are received either in the State Office Receiving and Accounts mail slot prior to the Public Room hours, or by the first regular mail delivery of the day, or in the same courier mail delivery. Priority of the offers, to the extent of the conflicts between them, shall be determined by a drawing in accordance with 43 CFR

1821.2-3. If the first drawn offeror fails to comply with all requirements within the specified time, the offer must be rejected. Following the 30-day appeal period, if no appeal is filed, the next offer in priority is to be considered.

Presale offers may receive certain corrections submitted by the offeror or made at the request of the BLM authorized officer. Depending on the nature of the correction, priority either will be retained or is given at the time the correction has been made (see Manual Section 3110.43).

31

C. Action on Presale Lease Offer

Responsible

Official Step Action Keywords

Receiving 1. Receive offer Form 3100-11. Check that PRESALE OFFER

Official offer is on current form and correct RECEIVED

number of copies (original and two) are

filed, with sufficient rental and \$75

filing fee. (See 43 CFR 3103.2-1 and

3103.2-2, Manual Section 3110.42, and

Section V, above.)

2. Date and time stamp at least one copy

of offer form, preferably the copy with

the original signature (see Section

III.F, above).

3. Assign serial number and validate

filing fee.

4. Prepare accounting advice and place two copies (green and goldenrod) in case file.

5. Send case file through Docket to official responsible for ALMRS Entry.

ALMRS Entry 6. The following indicates the most common AUTOMATED action code(s) to be utilized. NOTATION

Reference is to be made to the current Data Standards for Oil and Gas Lease Case Types and the current Data Element Dictionary for additional requirements.

6a. Establish the case in ALMRS (Case

Type 311121 for present interest

public domain minerals or Case

Type 311122 for present interest

acquired lands minerals; for

future interest minerals, use

Case Types 311123 or 311124).

6b. Enter Action Date (MANDATORY

ACTION CODE): Date offer

received; DE 1775 Action Code

001/DE 2910 Action Code 124;

Action Remarks: Enter the time

offer received, i.e., #0130

(optional).

32

Responsible

Official Step Action Keywords

7. Send case file to Title Records, as appropriate, for notation on oil and gas plats/status records.

Title Records 8. Note offer on oil and gas plats/status RECORDS records (or other appropriate records). NOTATION

9. Route case file to Adjudication through Docket.

ALMRS Entry 10. If all or part of lands are a presale AUTOMATED offer: NOTATION

10a. Enter Action Date (MANDATORY

ACTION CODE): Date presale offer

is received; DE 1775 Action Code

041/DE 2910 Action Code 128.

NOTE: This code is used only in

conjunction with DE 1775

Action Code 001/DE 2910

Action Code 124.

Adjudication 11. Sort offers by township and range and

determine if there is a conflict that

requires a public drawing.

12. Adjudicate offer, checking for the ADJUDICATE

following: PRESALE

OFFER

12a. Proper lease offer form and

sufficient number of copies,

i.e., original and two copies,

with each copy showing evidence of having been signed. An offer to lease must be made on the current BLM-approved Form 3100-11, or on unofficial copies of the current form. (See Manual Section 3110.74.)

12b. Original offer form must be manually signed. Failure to date the lease offer is **not** a fatal deficiency.

33

Responsible

Official Step Action Keywords

12c. Proper rental was received in accordance with 43 CFR 3103.2.

(See Manual Section 3110.42 and Section V, above.)

12d. Ensure that lands are available and are described correctly.

(See Sections I.A. and III.)

12e. Apply the 640-acre rule. (See Sections II.A and II.B.)

12f. Verify that the lands have not been through the competitive process within the past 2 years.

(If the lands have been through

the competitive process within
the past 2 years, refer to
Sections IX, X, or XI, as
applicable.)

12g. If the presale offer contains
lands greater than the maximum
acreage allowed for competitive
lease as specified by the
Federal Onshore Oil and Gas
Leasing Reform Act (2,560 acres
in the lower 48 states and 5,760
acres within Alaska), split the
offer into parcels as compact as
possible not exceeding the
maximum allowable acreage.

12h. Include lands in the offer in the
next possible competitive sale
notice in accordance with
Handbook 3120-1. Indicate in
sale notice those parcels with
presale noncompetitive offers.

12i. OPTIONAL: Acknowledge presale ACKNOWLEDGEMENT
offeror by mail indicating which OF PRESALE OFFER
sale notice includes the parcel.

34

Responsible

Official Step Action Keywords

13. After competitive oral auction has been CHECK FOR held, if no bid is received for parcel, UNITS/CA'S check the oil and gas plats/status records (or other appropriate records) for unit/communitization agreements (CA's) that may have been approved since the Notice of Competitive Lease Sale was officially posted.

13a. If lands in the offer are within LANDS WITHIN the boundaries of a unit, offeror UNIT/UNIT must submit either evidence of JOINDER joining the unit or a letter from the unit operator stating that the unit operator has no objection to lease issuance without unit joinder (see Illustrations 11 and 12).

13b. If lands in the offer are within LANDS WITHIN the boundaries of a CA, offeror CA - JOINDER must submit evidence of joinder. REQUIRED Unlike Federal units, lessees cannot operate independently in a Federal CA.

13c. If part of lands in the presale offer are inside the boundary of a unit/CA that was approved **after** the sale notice was officially

posted, segregate the offer and
request joinder for the offer
that is within the agreement
boundaries.

ALMRS Entry 14. Enter Action Date: Date additional AUTOMATED
information requested; DE 1775 Action NOTATION
Code 112/DE 2910 Action Code 104;
Action Remarks: Unit/CA joinder
requested from offeror. Use in
conjunction with DE 1775 Action Code
113/DE 2910 Action Code 103 when
additional information is received.

35

Responsible

Official Step Action Keywords

Adjudication 15. Issue noncompetitive lease to priority
presale offeror, in accordance with
the procedures described in Section
X.B, if lands are not bid on at oral
auction, (see Illustration 13 for
example ALMRS Case Recordation Serial
Register Page/Case Abstract).

16. Reject any nonpriority offers in REJECT OFFERS
accordance with the procedures
described in Section X.C.

Docket 17. File case file for issued lease with
active files.

VIII. Noncompetitive Postsale Offers Filed Day After the Sale

A. Action For Receiving Offer

Responsible

Official Step Action Keywords

Receiving 1. Receive offer Form 3100-11. Check that POSTSALE

Official offer is on current form and correct OFFER FILED

number of copies (original and two) are DAY AFTER

filed, with sufficient rental and \$75 SALE UNDER

filing fee. (See 43 CFR 3103.2-1 and 43 CFR 3110.1(b)

3103.2-2, Manual Section 3110.42, and

and Section V, above.)

2. Date and time stamp at least one copy

of offer form, preferably the copy with

the original signature (see Section

III.F, above).

3. Assign serial number and validate

filing fee.

4. Prepare accounting advice and place two

copies (green and goldenrod) in case

file.

5. Send case file through Docket to

official responsible for ALMRS Entry.

ALMRS Entry 6. The following reflects the most common AUTOMATED

action code(s) to be utilized. NOTATION

Reference is to be made to the current

Data Standards for Oil and Gas Lease

Cases and the current Data Element

Dictionary for additional requirements.

6a. Establish the case in ALMRS (Case

Types 311121 or 311122 for present

interest; for future interest, use

Case Types 311123 or 311124).

6b. Enter Action Date (MANDATORY

ACTION CODE): Date offer

received; DE 1775 Action Code

001/DE 2910 Action Code 124;

Action Remarks: Enter parcel

number (optional).

38

Responsible

Official Step Action Keywords

7. Send case file to Title Records, as

appropriate, for notation on oil and

gas plats/status records.

Title Records 8. Note offer on oil and gas plats/status RECORDS

records (or other appropriate records). NOTATION

9. Route case file to Adjudication through

Docket.

Adjudication 10. All offers received the day after the PRIORITY

sale shall be considered simultaneously ESTABLISHED

filed as of the date specified in the

sale notice. (See Section VI.B.1.)

11. Sort offers by parcel number and, if conflicting offers occur for any parcel, establish priority by public drawing.

ALMRS Entry 12. Enter Action Date (MANDATORY ACTION AUTOMATED CODE): Date offer received day after NOTATION

sale; DE 1775 Action Code 016/DE 2910

Action Code 129; Action Remarks: Enter

number of offers received for the

parcel, **including** the offer that

matures into an issued lease.

Adjudication 13. Adjudicate each priority offer,

checking for the following:

13a. Proper lease offer form and ADJUDICATE OFFERS

sufficient number of copies, RECEIVED DAY

i.e., original and two copies, AFTER THE SALE

with each copy showing evidence

of having been signed. An offer

to lease must be made on the

current BLM-approved Form 3100-11,

or on unofficial copies of the

current form. (See Manual

Section 3110.74.)

13b. Original offer form must be

manually signed. Failure to date

the lease offer is **not** a fatal

deficiency.

Responsible

Official Step Action Keywords

13c. Proper rental was received in accordance with 43 CFR 3103.2.

(See Manual Section 3110.42 and Section V, above.)

13d. Offer is for an entire single parcel and is described by the parcel number as it appeared in the sale notice. If a legal description also is included, and a discrepancy exists between the parcel number and the legal description, the parcel number shall govern (see Section III.A).

13e. Note that failure to check the public domain or acquired box on the lease form (Form 3100-11), or checking the wrong box is **not** a fatal deficiency (see Section IV).

13f. Check oil and gas plats/status CHECK FOR records for units/CA's that may UNITS/CA'S have been approved since the sale notice was officially posted.

13g. If lands in the offer are within LANDS WITHIN the boundaries of a unit, the UNIT/UNIT

offeror must submit either JOINDER

evidence of joining the unit or a

letter from the unit operator

stating that the unit operator

has no objection to lease

issuance without unit joinder

(see Illustrations 11 and 12).

13h. If lands in the offer are within LANDS WITHIN

the boundaries of a CA, offeror CA - JOINDER

must submit evidence of joinder. REQUIRED

Unlike Federal units, lessees

cannot operate independently in

a Federal CA.

40

Responsible

Official Step Action Keywords

ALMRS Entry 14. Enter Action Date: Date additional AUTOMATED

information requested; DE 1775 Action NOTATION

Code 112/DE 2910 Action Code 104;

Action Remarks: Unit/CA joinder

requested from offeror. Use in

conjunction with for DE 1775 Action

Code 113/DE 2910 Action Code 103 when

additional information is received.

41

B. Action For Processing Offer for Approval

Responsible

Official Step Action Keywords

Adjudication 1. Prepare offer form (Form 3100-11) for PROCESS

lease issuance. Add land description LEASE OFFER

on lease form by typing it in Item 3,

or by an attachment to the lease form.

2. Attach all required stipulations and

the Notice to Lessee concerning Mineral

Leasing Act (MLA) Section 2(a)(2)(A)

restrictions with respect to assign-

ments/transfers of oil and gas leases

from certain Federal coal lease holders

(see Illustration 14).

3. When a stipulation is added, deleted, STIPULATION

or revised after the official posting CHANGES,

of the sale notice but prior to the ADDITIONS, AND

issuance of a noncompetitive lease, use DELETIONS

the following steps:

3a. If the stipulation revision,

addition, or deletion would

increase the value of the parcel,

withdraw the parcel from the sale

notice and readvertise for

offering at a future auction in a

subsequent sale notice with all

the correct stipulations.

3b. Return any postsale noncompetitive

offer with **all** monies refunded

(first year's advance rental **and**

filing fee).

3c. If it is determined that the stipu-

lation change would **not** increase

the value of the parcel, the lands

continue to be available for

noncompetitive offer during the

2-year period. However, **before**

issuing a noncompetitive lease,

post a notice for 45 days in the

State Office Public Room and at

the appropriate local BLM Field

Office to advise the public of the

specific stipulation change,

addition, or deletion.⁴²

Responsible

Official Step Action Keywords

3d. If no adverse public response is

received during the 45-day period,

send a notice to the offeror

providing a 30-day period to sign

the specific changed or added

stipulation (see Illustration 15).

3e. If the offeror accepts the revised

or added stipulation, continue to

process the lease to issuance as

described below.

3f. If the offeror refuses to sign the STIPULATION stipulation change, refund **all** CHANGE REFUSED - monies (first year's advance REFUND ALL MONIES rental **and** filing fee).

3g. If a second priority offer exists, provide that party 30 days by notice in which to sign and accept the revised or added stipulation.

3h. If all the remaining offerors refuse to accept the lease, the lands remain available for noncompetitive leasing with the changed stipulation for the remainder of the 2-year period.

3i. If adverse public response is received, handle the response as if it were a protest. That is, if the BLM agrees with the adverse response, the BLM is to withdraw the land. Refund to the offeror **all** monies, including the \$75 filing fee, and give the offeror the right of appeal.

3j. If the adverse response (protest) is denied, offer the lease to the offeror with the changed stipulation as described above, and give

the protestant the right of appeal.

3k. If an appeal is filed, notify the offeror of the pending appeal.

43

Responsible

Official Step Action Keywords

4. If a unit/CA is involved and notice has been received of acceptance of joinder, a lease may be issued.

4a. If part of lands in the offer are outside the boundary of a unit/CA that was approved **after** the sale notice was officially posted, segregate into two parcels and request joinder for the parcel that is within the agreement boundaries (see Step VIII.A.13g, above, and Illustration 11).

5. If additional rental is required (nominal rental deficiency), prepare a decision requesting the necessary amount (see Section V, above, and Illustration 5.)

ALMRS Entry 6. Enter Action Date: Date monies AUTOMATED

requested; DE 1775 Action Code 082/DE NOTATION

2910 Action Code 106; Action Remarks:

Indicate amount and purpose.

7. Enter Action Date: Date monies

received; DE 1775 Action Code 083/DE

2910 Action Code 392; Action Remarks:

Indicate amount and purpose.

Adjudication 8. Stamp "Original" or "File" on the LEASE COPIES

originally signed lease offer form for DESIGNATED

the case file.

8a. Stamp "Lessee" on the first copy

of lease offer. Stamp second copy

for the surface management agency

(SMA), as appropriate.

9. After receipt of **total** first year's ACCOUNTING

rental due, complete the accounting ADVICE

advice (see Illustration 16). If COMPLETED

lands are located in two or more

counties, enter exact acreage

located in each county.

10. Prepare routing slip and records

worksheet. Route lease for signature

by the BLM authorized officer.⁴⁴

Responsible

Official Step Action Keywords

Signing 11. Sign the original of lease form (Form

Official 3100-11) and use signature stamp on

lessee/SMA copies of lease form.

Adjudication 12. Make distribution in accordance with

State Office procedures, e.g., one copy

to SMA, if any (mandatory), and one copy to Field Office Operations.

13. If, after a lease is signed, issued, STIPULATIONS and mailed to the lessee, it is INADVERTENTLY discovered that some or all of the NOT ATTACHED lease stipulations that were identified TO LEASE in the Notice of Competitive Lease Sale as being applicable to the parcel were not attached as part of the lease, send the stipulations by a notice to the lessee, ensuring that a copy of the notice and stipulations are placed in the case file. The notice to the lessee is simply a courtesy since the stipulations are binding, and the lessee filed the noncompetitive offer on the parcel as it was advertised in the sale notice with full awareness of the stipulations as identified. (See 43 CFR 3101.1-3.)

ALMRS Entry 14. Update lease issuance (see Illustration AUTOMATED 13): NOTATION

14a. Enter Action Date (MANDATORY ACTION CODE): Date lease signed;
DE 1775 Action Code 176/DE 2910
Action Code 237.

14b. Enter Action Date (MANDATORY

ACTION CODE, WHEN APPLICABLE FOR
FRACTIONAL U.S. INTEREST LANDS):

Enter date lease signed (or offer
was received); DE 1775 Action

Code 448/DE 2910 Action Code 527;

Action Remarks: Percentage of
Federal mineral ownership when
U.S. mineral interests are less
than 100%.

45

Responsible

Official Step Action Keywords

14c. Enter Action Date (MANDATORY

ACTION CODE IF LANDS ARE IN MORE

THAN ONE COUNTY): Enter date

lease signed and lands are in two

or more counties; DE 1775 Action

Code 417/DE 2910 Action Code 523;

Action Remarks: Enter acres and

State and county codes from

DE 0002.

14d. Enter Action Date (MANDATORY

ACTION CODE): Effective date of

lease; DE 1775 Action Code 225/DE

2910 Action Code 868.

14e. Enter Action Date (MANDATORY

ACTION CODE): Enter 12 1/2

percent royalty rate; DE 1775

Action Code 102/DE 2910 Action

Code 530.

14f. For acquired lands mineral lease: AUTOMATED

Enter Action Date (MANDATORY NOTATION -

ACTION CODE FOR ACQUIRED LANDS FUND SYMBOL

MINERALS): Enter fund symbol; FOR ACQUIRED

DE 1775 Action Code 444/DE 2910 LANDS MINERALS

Action Code 496; Action Remarks:

Fund symbol argument code from DE

3042; OPTIONAL: Also enter

Treasury fund symbol, including

proclaimed unit number (refuge

code) in Action Remarks.

NOTE: See Appendix 1 for a

listing of the Treasury

Symbols.

14g. Enter Action Date (MANDATORY

ACTION CODE): Date lease

expires; DE 1775/2910 Action

Code 763.

NOTE: See Appendix 2 for a listing of

key action codes from the data

standards which must be used in

ALMRS Case Recordation and

Record System Release 1.0 for

noncompetitive leasing actions.46

Responsible

Official Step Action Keywords

Adjudication 15. Send case file to Title Records through

Docket for notation of appropriate

records.

16. Send accounting advice(s) to Accounts.

Title 17. Note oil and gas plat/status records RECORDS

Records and historical index (HI) (or other NOTATION appropriate records).

18. Return case file to Docket.

Docket 19. File case file with active cases.

47

C. Rejection of Nonpriority Offers

Responsible

Official Step Action Keywords

Adjudication 1. Issue decision rejecting offers not POSTSALE

receiving priority. A single decision OFFERS

may include all offers filed by the REJECTED

same entity (see Illustration 17).

2. Send case file with decision to

signing official.

3. After decision is signed, send by

certified mail.

4. If all postsale offers filed the first CLOSE CASE

day after the sale were serialized

(instead of serialization of parcel

filed on), close the case file for

each rejected offer at the end of the 30-day appeal period (plus a 10-day grace period for appeal) if no appeal is filed (see 43 CFR 4.401(a)).

5. Complete the accounting advice to refund first year's advance rental and send to Accounts.

6. When a refund represents an amount tendered by a nonguaranteed check, initiate the refund only after 15 days have elapsed from the date of deposit, to ensure that the check cleared the banking system. It is important to note that the Department of the Treasury procedures require that **all** monies received for the first year's advance rentals and the \$75 filing fees for all the unsuccessful offers must be deposited into the U.S. Treasury, i.e., the checks cannot be directly returned to the offerors.

48

Responsible

Official Step Action Keywords

ALMRS Entry 7. If offers were individually serialized, AUTOMATED update entry showing offer rejection: NOTATION

7a. Enter Action Date (MANDATORY

ACTION CODE): Date offer rejected;

DE 1775 Action Code 006/DE 2910

Action Code 125; Action Remarks:

Enter reason for the rejection.

7b. Enter Action Date (MANDATORY

ACTION CODE): Date case closed;

DE 1775/2910 Action Code 970.

Adjudication 8. Send case file to Title Records for records notation, as applicable.

9. Route case file to Docket.

Docket 10. File case file with closed files.

49

Keywords

D. Statistical Reporting Requirements

Summary information concerning noncompetitive offers filed STATISTICAL on the first day following the oral auction for parcels REPORTING that received no bid (and unsold presale offers) must be REQUIREMENTS transmitted electronically to the Washington Office FOR WASHINGTON (WO-610) and the Statistics Coordinator, Colorado State OFFICE Office (CO-920) within 5 working days after the end of the oral auction (see Illustration 18).

Those State Offices with jurisdiction over more than one geographic State are **not** to separate the information by geographic State. However, the summary information for noncompetitive offers filed on future interest parcels must be reported separately from the information for offers filed on present interest parcels.

IX. Noncompetitive Postsale Offers Filed During Remainder of

Parcel Integrity Period/Month of Sale

A. Action For Receiving Offer

Responsible

Official Step Action Keywords

Receiving 1. Receive offer Form 3100-11. Check that POSTSALE OFFER

Official offer is on current form and correct FILED AFTER

number of copies (original and two) are SALE DURING

filed with sufficient rental and \$75 REMAINDER

filing fee. (See 43 CFR 3103.2-1 and OF PARCEL

3103.2-2, Manual Section 3110.42, and INTEGRITY

Section V, above.) PERIOD

2. Date and time stamp at least one copy

of offer form, preferably the copy with

the original signature (see Section

III.F, above).

3. Assign serial number and validate

filing fee.

4. Prepare accounting advice and place two

copies (green and goldenrod) in case

file.

5. Send case file through Docket to

official responsible for ALMRS Entry.

ALMRS Entry 6. The following reflects the most common AUTOMATED

action code(s) to be utilized. NOTATION

Reference is to be made to the current
Data Standards for Oil and Gas Lease
Cases and the current Data Element
Dictionary for additional requirements.

6a. Establish the case in ALMRS (Case
Types 311121 or 311122 for present
interest; for future interest, use
Case Types 311123 or 311124).

6b. Enter Action Date (MANDATORY
ACTION CODE): Date offer
received; DE 1775 Action Code
001/DE 2910 Action Code 124;
Action Remarks: Enter parcel
number/sale date (optional).

52

Responsible

Official Step Action Keywords

7. Send case file to Title Records, as
appropriate, for notation on oil and
gas plats/status records.

Title Records 8. Note offer on oil and gas plats/status RECORDS
records (or other appropriate records). NOTATION

9. Route case file to Adjudication through
Docket.

Adjudication 10. Offers received subsequent to the first PRIORITY
business day after the competitive sale ESTABLISHED
and during the remainder of the month

of the sale have priority first determined by the date and time the offer is filed. Offers filed for the same parcel and that are received in at the same time will have priority established in accordance with 43 CFR 1821.2-3(a) (see Section VI.B).

11. Sort offers by parcel number and, if offers are received at the same time for the same parcel, establish priority by public drawing.

12. Adjudicate each priority offer, ADJUDICATE checking for the following: OFFER FILED DURING PARCEL

12a. Proper lease offer form and INTEGRITY MONTH sufficient number of copies, i.e., original and two copies, with each copy showing evidence of having been signed. An offer to lease must be made on the current BLM-approved Form 3100-11, or on unofficial copies of the current form. (See Manual Section 3110.74.)

12b. Original offer form must be manually signed. Failure to date the lease offer is **not** a fatal

deficiency.

53

Responsible

Official Step Action Keywords

12c. Proper rental was received in accordance with 43 CFR 3103.2.

(See Manual Section 3110.42 and Section V, above.)

12d. Offer is for an entire single parcel and is described by the parcel number as it appeared in the sale notice. If a legal description also is included, and a discrepancy exists between the parcel number and the legal description, the parcel number shall govern (see Section III.A).

12e. Note that failure to check the public domain or acquired box on the lease form (Form 3100-11), or checking the wrong box is **not** a fatal deficiency (see Section IV).

12f. Check oil and gas plats/status CHECK FOR records for units/CA's that may UNITS/CA'S have been approved since the sale notice was officially posted.

12g. If lands in the offer are within LANDS WITHIN

the boundaries of a unit, offeror UNIT/UNIT

must submit either evidence of JOINDER

joining the unit or a letter from

the unit operator stating that

the unit operator has no

objection to lease issuance

without unit joinder (see Illus-

trations 11 and 12).

12h. If lands in the offer are within LANDS WITHIN

the boundaries of a CA, offeror CA - JOINDER

must submit evidence of joinder. REQUIRED

Unlike Federal units, lessees

cannot operate independently in

a Federal CA.

54

Responsible

Official Step Action Keywords

ALMRS Entry 13. Enter Action Date: Date additional AUTOMATED

information requested; DE 1775 Action NOTATION

Code 112/DE 2910 Action Code 104;

Action Remarks: Unit/CA joinder

requested from offeror. Use in

conjunction with for DE 1775 Action

Code 113/DE 2910 Action Code 103 when

additional information is received.

55

B. Action for Processing Offer for Approval

Responsible

Official Step Action Keywords

Adjudication 1. Prepare offer form (Form 3100-11) for PROCESS

lease issuance. Add land description LEASE OFFER

on lease form by typing it in Item 3,

or by an attachment to the lease form.

2. Attach all required stipulations and

the Notice to Lessee concerning Mineral

Leasing Act (MLA) Section 2(a)(2)(A)

restrictions with respect to assign-

ments/transfers of oil and gas leases

from certain Federal coal lease holders

(see Illustration 14).

3. When a stipulation is added, deleted, STIPULATION

or revised after the official posting CHANGES,

of the sale notice but prior to the ADDITIONS, AND

issuance of a noncompetitive lease, use DELETIONS

the following steps:

3a. If the stipulation revision,

addition, or deletion would

increase the value of the parcel,

withdraw the parcel from the sale

notice and readvertise for

offering at a future auction in a

subsequent sale notice with all

the correct stipulations.

3b. Return any postsale noncompetitive

offer with **all** monies refunded

(first year's advance rental **and**
filing fee).

3c. If it is determined that the stipu-
lation change would **not** increase
the value of the parcel, the lands
continue to be available for
noncompetitive offer during the
2-year period. However, **before**
issuing a noncompetitive lease,
post a notice for 45 days in the
State Office Public Room and at
the appropriate local BLM Field
Office to advise the public of the
specific stipulation change,
addition, or deletion.⁵⁶

Responsible

Official Step Action Keywords

3d. If no adverse public response is
received during the 45-day period,
send a notice to the offeror
providing a 30-day period to sign
the specific changed or added
stipulation (see Illustration 15).

3e. If the offeror accepts the revised
or added stipulation, continue to
process the lease to issuance as

described below.

3f. If the offeror refuses to sign the STIPULATION stipulation change, refund **all** CHANGE REFUSED - monies (first year's advance REFUND ALL MONIES rental **and** filing fee).

3g. If a second priority offer exists, provide that party 30 days by notice in which to sign and accept the revised or added stipulation.

3h. If all the remaining offerors refuse to accept the lease, the lands remain available for noncompetitive leasing with the changed stipulation for the remainder of the 2-year period.

3i. If adverse public response is received, handle the response as if it were a protest. That is, if the BLM agrees with the adverse response, the BLM is to withdraw the land. Refund to the offeror **all** monies, including the \$75 filing fee, and give the offeror the right of appeal.

3j. If the adverse response (protest) is denied, offer the lease to the offeror with the changed stipula-

tion as described above, and give
the protestant the right of appeal.

3k. If an appeal is filed, notify the
offeror of the pending appeal.

57

Responsible

Official Step Action Keywords

4. If a unit/CA is involved and notice has
been received of acceptance of joinder,
a lease may be issued.

4a. If part of lands in the offer are
outside the boundary of a unit/CA
that was approved **after** the sale
notice was officially posted,
segregate into two parcels and
request joinder for the parcel
that is within the agreement
boundaries (see Step VIII.A.13g,
above, and Illustration 11).

5. If additional rental is required
(nominal rental deficiency), prepare a
decision requesting the necessary
amount (see Section V, above, and
Illustration 5.)

ALMRS Entry 6. Enter Action Date: Date monies AUTOMATED
requested; DE 1775 Action Code 082/DE NOTATION
2910 Action Code 106; Action Remarks:

Indicate amount and purpose.

7. Enter Action Date: Date monies

received; DE 1775 Action Code 083/DE

2910 Action Code 392; Action Remarks:

Indicate amount and purpose.

Adjudication 8. Stamp "Original" or "File" on the LEASE COPIES

originally signed lease offer for DESIGNATED

the case file.

8a. Stamp "Lessee" on the first copy

of lease offer. Stamp second copy

for the SMA, as appropriate.

9. After receipt of **total** first year's ACCOUNTING

rental due, complete accounting ADVICE

advice (see Illustration 16). If COMPLETED

lands are located in two or more

counties, enter exact acreage

located in each county.

10. Prepare routing slip and records

worksheet. Route lease for signature

by the BLM authorized officer.⁵⁸

Responsible

Official Step Action Keywords

Signing 11. Sign the original of lease Form 3100-11

Official and use signature stamp on lessee/SMA

copies of lease form.

Adjudication 12. Make distribution in accordance with

State Office procedures, e.g., one copy

to SMA, if any (mandatory), and one copy to Field Office Operations.

13. If, after a lease is signed, issued, STIPULATIONS and mailed to the lessee, it is INADVERTENTLY discovered that some or all of the NOT ATTACHED lease stipulations that were identified TO LEASE in the Notice of Competitive Lease Sale as being applicable to the parcel were not attached as part of the lease, send the stipulations by a notice to the lessee, ensuring that a copy of the notice and stipulations are placed in the case file. The notice to the lessee is simply a courtesy since the stipulations are binding, and the lessee filed the noncompetitive offer on the parcel as it was advertised in the sale notice with full awareness of the stipulations as identified. (See 43 CFR 3101.1-3.)

ALMRS Entry 14. Update lease issuance (see Illustration AUTOMATED 19): NOTATION

14a. Enter Action Date (MANDATORY ACTION CODE): Date postsale

2-year offer received; DE 1775

Action Code 040/DE 2910 Action Code 135.

14b. Enter Action Date (MANDATORY

ACTION CODE): Date lease signed;

DE 1775 Action Code 176/DE 2910

Action Code 237.

59

Responsible

Official Step Action Keywords

14c. Enter Action Date (MANDATORY

ACTION CODE, WHEN APPLICABLE FOR

FRACTIONAL U.S. INTEREST LANDS):

Enter date lease signed (or offer

was received); DE 1775 Action

Code 448/DE 2910 Action Code 527;

Action Remarks: Percentage of

Federal mineral ownership when

U.S. mineral interests are less

than 100%.

14d. Enter Action Date (MANDATORY

ACTION CODE IF LANDS ARE IN MORE

THAN ONE COUNTY): Enter date

lease signed and lands are in two

or more counties; DE 1775 Action

Code 417/DE 2910 Action Code 523;

Action Remarks: Enter acres and

State and county codes from

DE 0002.

14e. Enter Action Date (MANDATORY

ACTION CODE): Effective date of
lease; DE 1775 Action Code 225/DE
2910 Action Code 868.

14f. Enter Action Date (MANDATORY

ACTION CODE): Enter 12 1/2

percent royalty rate; DE 1775

Action Code 102/DE 2910 Action

Code 530.

14g. For acquired lands mineral lease: AUTOMATED

Enter Action Date (MANDATORY NOTATION -

ACTION CODE FOR ACQUIRED LANDS FUND SYMBOL

MINERALS): Enter fund symbol; FOR ACQUIRED

DE 1775 Action Code 444/DE 2910 LANDS MINERALS

Action Code 496; Action Remarks:

Fund symbol argument code from DE

3042; OPTIONAL: Also enter

Treasury fund symbol, including

proclaimed unit number (refuge

code) in Action Remarks.

NOTE: See Appendix 1 for a

listing of the Treasury

Symbols.

60

Responsible

Official Step Action Keywords

14h. Enter Action Date (MANDATORY

ACTION CODE): Date lease

expires; DE 1775/2910 Action

Code 763.

Adjudication 15. Send case file to Title Records through

Docket for notation of appropriate

records.

16. Send accounting advice(s) to Accounts.

Title 17. Note oil and gas plat/status records RECORDS

Records and HI. NOTATION

18. Return case file to Docket.

Docket 19. File case file with active cases.

61

C. Rejection of Nonpriority Offers

Responsible

Official Step Action Keywords

Adjudication 1. If more than one offer was received POSTSALE

on a parcel, reject by decision those OFFERS

offers not in priority (see Illustration 17).

tion 17).

2. Send case file with decision to

signing official.

3. After decision is signed, send by

certified mail.

4. If postsale offers received during the CLOSE CASE

remainder of parcel integrity period

were serialized (instead of serializa-

tion of parcel filed on), close the

case file for each rejected offer at

the end of the 30-day appeal period
(plus a 10-day grace period for appeal
if no appeal is filed (see 43 CFR
4.401(a)).

5. Complete the accounting advice to
refund first year's advance rental and
send to Accounts.

ALMRS Entry 6. If offers were individually serialized, AUTOMATED
update entry showing offer rejection: NOTATION

6a. Enter Action Date (MANDATORY
ACTION CODE): Date offer rejected;

DE 1775 Action Code 006/DE 2910

Action Code 125; Action Remarks:

Enter reason for the rejection.

6b. Enter Action Date (MANDATORY
ACTION CODE): Date case closed;

DE 1775/2910 Action Code 970.

Adjudication 7. Send case file to Title Records for RECORDS
records notation, as applicable. NOTATION

8. Route case file to Docket.

Docket 9. File case file with closed files.

Reverse Side Intentionally Blank

63

X. Noncompetitive Postsale Offers Filed After Parcel Integrity Period
and During 2-Year Period

A. Action for Receiving Offer

Responsible

Official Step Action Keywords

Receiving 1. Receive offer Form 3100-11. Check that POSTSALE OFFER

Official offer is on current form and correct FILED AFTER

number of copies (original and two) are PARCEL INTEGRITY

filed, with sufficient rental and \$75 PERIOD AND DURING

filing fee. (See 43 CFR 3103.2-1 and 2-YEAR PERIOD

3103.2-2, Manual Section 3110.42, and

Section V, above.)

2. Date and time stamp at least one copy

of offer form, preferably the copy with

the original signature (see Section

III.F, above).

3. Assign serial number and validate

filing fee.

4. Prepare accounting advice and place two

copies (green and goldenrod) in case

file.

5. Send case file through Docket to

official responsible for ALMRS Entry.

ALMRS Entry 6. The following reflects the most common AUTOMATED

action code(s) to be utilized. NOTATION

Reference is to be made to the current

Data Standards for Oil and Gas Lease

Cases and the current Data Element

Dictionary for additional requirements.

6a. Establish the case in ALMRS (Case

Types 311121 or 311122 for present

interest; for future interest, Case

Types 311123 or 311124).

6b. Enter Action Date (MANDATORY

ACTION CODE): Date offer received;

DE 1775 Action Code 001/DE 2910

Action Code 124; Action Remarks:

Enter parcel number/sale date, if

such can be clearly identified

(optional).

64

Responsible

Official Step Action Keywords

7. Send case file to Title Records, as

appropriate, for notation on oil and

gas plats/status records.

Title Records 8. Note offer on oil and gas plats/status RECORDS

records (or other appropriate records). NOTATION

9. Route case file to Adjudication through

Docket.

Adjudication 10. An offer received after the end of the PRIORITY

parcel integrity period, i.e., received ESTABLISHED

after the end of the month of the sale

and during the remainder of the 2-year

period must be filed by the legal land

description in accordance with 43 CFR

3110.5. Offers for the same lands

that are received in the same mail at

the same time will have priority established in accordance with 43 CFR 1821.2-3(a). If the first-drawn applicant fails to comply with all the requirements within the specified time, the offer shall be rejected. In such a case, go to next offer in priority, if any exists (see Section VI.B).

11. Sort offers by township and range, and establish priority by a public drawing for those received at the same time that are for the same lands.

12. Adjudicate offer, checking for the ADJUDICATE OFFER following: FILED DURING REMAINDER OF

12a. Proper lease offer form and 2-YEAR PERIOD sufficient number of copies, i.e., original and two copies, with each copy showing evidence of having been signed. An offer to lease must be made on the current BLM-approved Form 3100-11, or on unofficial copies of the current form. (See Manual Section 3110.74.)

Official Step Action Keywords

12b. Original offer form must be manually signed. Failure to date the lease offer is **not** a fatal deficiency.

12c. Proper rental was received in accordance with 43 CFR 3103.2.

(See Manual Section 3110.42 and Section V, above.)

12d. Offer is described by legal land description. After the end of the parcel integrity period, any offer filed by the parcel number only, without the required legal land description, shall result in rejection of the offer (see Section III.B).

12e. Note that failure to check the public domain or acquired box on the lease form (Form 3100-11), or checking the wrong box is **not** a fatal deficiency (see Section IV).

12f. Check oil and gas plats/status CHECK FOR records for units/CA's that may UNITS/CA'S have been approved since the sale notice was officially posted.

12g. If lands in the offer are within LANDS WITHIN

the boundaries of a unit, offeror UNIT/UNIT
must submit either evidence of JOINDER
joining the unit or a letter from
the unit operator stating that
the unit operator has no
objection to lease issuance
without unit joinder (see Illus-
trations 11 and 12).

12h. If lands in the offer are within LANDS WITHIN
the boundaries of a CA, offeror CA - JOINDER
must submit evidence of joinder. REQUIRED

Unlike Federal units, lessees
cannot operate independently in
a Federal CA.

66

Responsible

Official Step Action Keywords

ALMRS Entry 13. Enter Action Date: Date additional AUTOMATED

information requested; DE 1775 Action NOTATION

Code 112/DE 2910 Action Code 104;

Action Remarks: Unit/CA joinder

requested from offeror. Use in

conjunction with for DE 1775 Action

Code 113/DE 2910 Action Code 103 when

additional information is received.

67

B. Action for Processing Offer for Approval

Responsible

Official Step Action Keywords

Adjudication 1. Prepare offer form (Form 3100-11) for PROCESS

lease issuance. If necessary, LEASE OFFER

redescribe legal land description on

lease form by typing it in Item 3, or

by an attachment to the lease form.

1a. OPTIONAL: If the land description

in Item 2 on lease form is correct,

stamp "Same Land Description as

Item 2" in Item 3 on lease form.

2. Attach required stipulations and

Notice to Lessee concerning Mineral

Leasing Act (MLA) Section 2(a)(2)(A)

restrictions with respect to assign-

ments/transfers of oil and gas leases

from certain Federal coal lease holders

(see Illustration 14).

3. When a stipulation is added, deleted, STIPULATION

or revised after the official posting CHANGES,

of the sale notice but prior to the ADDITIONS, AND

issuance of a noncompetitive lease, DELETIONS

use the following steps:

3a. If the stipulation revision,

addition, or deletion would

increase the value of the parcel,

withdraw the parcel from the sale

notice and readvertise for offering at a future auction in a subsequent sale notice with all the correct stipulations.

3b. Return any postsale noncompetitive offer with **all** monies refunded (first year's advance rental **and** filing fee).

68

Responsible

Official Step Action Keywords

3c. If it is determined that the stipulation change would **not** increase the value of the parcel, the lands continue to be available for noncompetitive offer during the 2-year period. However, **before** issuing a noncompetitive lease, post a notice for 45 days in the State Office Public Room and at the appropriate local BLM Field Office to advise the public of the specific stipulation change, addition, or deletion.

3d. If no adverse public response is received during the 45-day period, send a notice to the offeror

providing a 30-day period to sign
the specific changed or added
stipulation (see Illustration 15).

3e. If the offeror accepts the revised
or added stipulation, continue to
process the lease to issuance as
described below.

3f. If the offeror refuses to sign the STIPULATION
stipulation change, refund **all** CHANGE REFUSED -
monies (first year's advance REFUND ALL MONIES
rental **and** filing fee).

3g. If a second priority offer exists,
provide that party 30 days by
notice in which to sign and accept
the revised or added stipulation.

3h. If all the remaining offerors
refuse to accept the lease, the
lands remain available for
noncompetitive leasing with the
changed stipulation for the
remainder of the 2-year period.

69

Responsible

Official Step Action Keywords

3i. If adverse public response is
received, handle the response as
if it were a protest. That is, if

the BLM agrees with the adverse response, the BLM is to withdraw the land. Refund to the offeror **all** monies, including the \$75 filing fee, and give the offeror the right of appeal.

3j. If the adverse response (protest) is denied, offer the lease to the offeror with the changed stipulation as described above, and give the protestant the right of appeal.

3k. If an appeal is filed, notify the offeror of the pending appeal.

4. If a unit/CA is involved and notice has been received of acceptance of joinder, lease may be issued.

4a. If part of lands in the offer are outside the boundary of a unit/CA that was approved **after** the sale notice was officially posted, segregate into two parcels and request joinder for the parcel that is within the agreement boundaries (see Step VIII.A.13g, above, and Illustration 11).

5. If additional rental is required (nominal rental deficiency), prepare a

decision requesting the necessary amount (see Section V, above, and Illustration 5).

ALMRS Entry 6. Enter Action Date: Date monies AUTOMATED requested; DE 1775 Action Code 082/DE NOTATION 2910 Action Code 106; Action Remarks:

Indicate amount and purpose.

7. Enter Action Date: Date monies received; DE 1775 Action Code 083/DE 2910 Action Code 392; Action Remarks:

Indicate amount and purpose.⁷⁰

Responsible

Official Step Action Keywords

Adjudication 8. Stamp "Original" or "File" on the LEASE COPIES originally signed lease offer for DESIGNATED the case file.

8a. Stamp "Lessee" on the first copy of lease offer. Stamp second copy for the SMA, as appropriate.

9. After receipt of **total** first year's ACCOUNTING rental due, complete accounting ADVICE advice (see Illustration 16). If COMPLETED lands are located in two or more counties, enter exact acreage located in each county.

10. Prepare routing slip and records worksheet. Route lease for signature

by the BLM authorized officer.

Signing 11. Sign the original of lease Form 3100-11

Official and use signature stamp on lessee/SMA

copies of lease form.

Adjudication 12. Make distribution in accordance with

State Office procedures, e.g., one copy

to SMA, if any (mandatory), and one

copy to Field Office Operations.

13. If, after a lease is signed, issued STIPULATIONS

and mailed to the lessee, it is INADVERTENTLY

discovered that some or all of the NOT ATTACHED

lease stipulations that were identified TO LEASE

in the Notice of Competitive Lease Sale

as being applicable to the parcel were

not attached as part of the lease, send

the stipulations by a notice to the

lessee, ensuring that a copy of the

notice and stipulations are placed in

the case file. The notice to the

lessee is simply a courtesy since the

stipulations are binding, and the

lessee filed the noncompetitive offer

on the parcel as it was advertised in

the sale notice with full awareness of

the stipulations as identified. (See

43 CFR 3101.1-3.)

Responsible

Official Step Action Keywords

ALMRS Entry 14. Update lease issuance (see Illustration AUTOMATED

19): NOTATION

14a. Enter Action Date (MANDATORY

ACTION CODE) Date postsale

2-year offer received; DE 1775

Action Code 040/DE 2910 Action

Code 135.

14b. Enter Action Date (MANDATORY

ACTION CODE): Date lease signed;

DE 1775 Action Code 176/DE 2910

Action Code 237.

14c. Enter Action Date (MANDATORY

ACTION CODE, WHEN APPLICABLE FOR

FRACTIONAL U.S. INTEREST LANDS):

Enter date lease signed (or offer

was received); DE 1775 Action

Code 448/DE 2910 Action Code 527;

Action Remarks: Percentage of

Federal mineral ownership when

U.S. mineral interests are less

than 100%.

14d. Enter Action Date (MANDATORY

ACTION CODE IF LANDS ARE IN MORE

THAN ONE COUNTY): Enter date

lease signed and lands are in two

or more counties; DE 1775 Action

Code 417/DE 2910 Action Code 523;

Action Remarks: Enter acres and

State and county codes from

DE 0002.

14e. Enter Action Date (MANDATORY

ACTION CODE): Effective date of

lease; DE 1775 Action Code 225/DE

2910 Action Code 868.

14f. Enter Action Date (MANDATORY

ACTION CODE): Enter 12 1/2

percent royalty rate; DE 1775

Action Code 102/DE 2910 Action

Code 530.

72

Responsible

Official Step Action Keywords

14g. For acquired lands mineral lease: AUTOMATED

Enter Action Date (MANDATORY NOTATION -

ACTION CODE FOR ACQUIRED LANDS FUND SYMBOL

MINERALS): Enter fund symbol; FOR ACQUIRED

DE 1775 Action Code 444/DE 2910 LANDS MINERALS

Action Code 496; Action Remarks:

Fund symbol argument code from DE

3042; OPTIONAL: Also enter

Treasury fund symbol, including

proclaimed unit number (refuge

code) in Action Remarks.

NOTE: See Appendix 1 for a

listing of the Treasury

Symbols.

14h. Enter Action Date (MANDATORY

ACTION CODE): Date lease

expires; DE 1775/2910 Action

Code 763.

Adjudication 15. Send case file to Title Records through

Docket for notation of appropriate

records.

16. Send accounting advice(s) to Accounts.

Title 17. Note oil and gas plat/status records RECORDS

Records and HI. NOTATION

18. Return case file to Docket.

Docket 19. File case file with active cases.

73

C. Rejection of Nonpriority Offers

Responsible

Official Step Action Keywords

Adjudication 1. If more than one offer for the same POSTSALE

land is received at the same time, OFFERS

reject by decision those offers not in REJECTED

priority. Reject any offers in whole

or part for other reasons (see Illus-

trations 20 and 21).

2. Send case file with decision to signing

official.

3. After decision is signed, send by certified mail.

4. If no appeal is filed, close case file CLOSE CASE at end of the 30-day appeal period, plus a 10-day grace period for appeal (see 43 CFR 4.401(a)).

5. Complete the accounting advice to refund first year's advance rental and send to Accounts.

ALMRS Entry 6. Update entry showing offer rejection: AUTOMATED NOTATION

6a. Enter Action Date (MANDATORY ACTION CODE): Date offer rejected;

DE 1775 Action Code 006/DE 2910

Action Code 125; Action Remarks:

Enter reason for rejection.

6b. Enter Action Date (MANDATORY ACTION CODE): Date case closed;

DE 1775/2910 Action Code 970.

Adjudication 7. Send case file to Title Records for RECORDS records notation, as applicable. NOTATION

8. Route case file to Docket.

Docket 9. File case file with closed files.

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Filed

A. Noncompetitive Offers - Public Domain or Acquired COMBINED OFFERS

Lands Minerals FILED UNDER

43 CFR

This Handbook Section provides guidelines for processing 3110.1(a)(1) noncompetitive lease offers containing both presale lands AND 3110.1(b) available under 43 CFR 3110.1(a)(1) and postsale lands available under 43 CFR 3110.1(b).

Regulation 43 CFR 3110.1(b) provides that lands that have been offered competitively and that have received no bid at the oral auction, shall be available for noncompetitive lease. Such lands shall become available for a period of 2 years beginning on the first business day following the last day of the competitive oral auction, and ending on that same day 2 years later. A lease may be issued from an offer properly filed any time within this 2-year period.

Regulation 43 CFR 3110.1(a)(1) provides that after January 2, 1989, noncompetitive lease offers may be filed on unleased lands, except for those lands that are in the 1-year period commencing upon the expiration, termination, relinquishment, or cancellation of the leases containing the lands and those lands contained in an officially **posted** Notice of Competitive Lease Sale.

In conclusion, a lease offer may include lands from both regulation sections. However, as prescribed by regulation 43 CFR 3110.4(c), an offer must be limited to either public domain minerals or acquired lands minerals.

See also Section II.A, above, for lease offer size requirements.

76

B. Action For Receiving Offer

Responsible

Official Step Action Keywords

Receiving 1. Receive offer Form 3100-11. Check that COMBINED

Official offer is on current form and correct PRESALE AND

number of copies (original and two) are POSTSALE

filed, with sufficient rental and \$75 OFFER FILED

filing fee. (See 43 CFR 3103.2-1 and

3103.2-2, Manual Section 3110.42, and

Section V, above.)

2. Date and time stamp at least one copy

of offer form, preferably the copy with

the original signature.

3. Assign serial number and validate

filing fee.

4. Prepare accounting advice and place two

copies (green and goldenrod) in case

file.

5. Send case file through Docket to

official responsible for ALMRS Entry.

ALMRS Entry 6. The following reflects the most common AUTOMATED

action code(s) to be utilized. NOTATION

Reference is to be made to the current

Data Standards for Oil and Gas Lease

Cases and the current Data Element

Dictionary for additional requirements.

6a. Establish the case in ALMRS (Case

Types 311121 or 311122 for present

interest; for future interest, Case

Types 311123 or 311124);

6b. Enter Action Date (MANDATORY

ACTION CODE): Date offer received;

DE 1775 Action Code 001/DE 2910

Action Code 124; Action Remarks:

Enter parcel number/sale date, if

applicable.

7. Send case file to Title Records, as

appropriate, for notation on oil and

gas plats/status records.

77

Responsible

Official Step Action Keywords

Title Records 8. Note offer on oil and gas plats/status RECORDS

records (or other appropriate records). NOTATION

9. Route case file to Adjudication through

Docket.

Adjudication 10. Priority of an offer received shall be PRIORITY

determined as of the time and date the ESTABLISHED

offer is filed in the proper BLM

Office. Simultaneously-filed offers

are those offers to lease some or all

of the same lands that are received in the Receiving and Accounts mail slot prior to Public Room hours; or received by the first regular mail; or received in the same courier mail delivery.

Priority of the offers, to the extent of the conflicts between them, shall be determined by a public drawing.

10a. If the first drawn applicant fails to comply with all requirements within the specified time, the offer is to be rejected. In such a case, go to next offer in priority, if any. (See Manual Section 3110.43.)

11. Determine lands in the offer that have been offered in an oral auction and are still available during the 2-year period after the sale, and determine the open and available lands described in the offer that have **not** been through the competitive process, and sort the latter presale-type lands by township and range.

12. Determine if there is a conflict among the offers that requires a public drawing.

13. Adjudicate offer, checking for the ADJUDICATE OFFER

following: CONTAINING BOTH

PRESALE AND

POSTSALE LANDS

78

Responsible

Official Step Action Keywords

13a. Proper lease offer form and

sufficient number of copies, i.e.,

original and two copies, with

each copy showing evidence of

having been signed. An offer to

lease must be made on the

current BLM-approved Form 3100-11,

or on unofficial copies of the

current form. (See Manual

Section 3110.74.)

13b. Original offer form must be

manually signed. Failure to date

the lease offer is **not** a fatal

deficiency.

13c. Proper rental was received in

accordance with 43 CFR 3103.2.

(See Manual Section 3110.42 and

Section V, above.)

13d. Offer is described by legal land

description in accordance with

Section III, and conforms to the lease offer size requirements in accordance with Section II, above.

13e. Note that failure to check the public domain or acquired box on the lease form (Form 3100-11), or checking the wrong box is **not** a fatal deficiency (see Section IV).

14. Offers combining presale and postsale lands may be processed in either of two ways as indicated in the options described in Steps XI.B.15 and XI.B.17, below.

15. OPTION 1:

15a. Segregate the offer (after SEGREGATE applying the minimum acreage OFFER rule).

79

Responsible

Official Step Action Keywords

15b. Issue lease immediately for postsale lands (even if such lands are less than the minimum acreage after the segregation).

15c. Process the presale lands for posting for competitive sale.

15d. Issue lease for presale lands if

parcel receives no bid at oral

auction (a second lease), OR

15e. Combine the presale lands in the

segregated offer into the first

lease as provided under 43 CFR

3110.8, but only if specifically

requested to do so by the offeror.

Note that additional signed lease

offer forms from the offeror are

not required for a second lease.

ALMRS Entry 16. Update for lease issuance of portion of AUTOMATED

lands and segregation and suspension of NOTATION

remainder of lease offer:

16a. Enter Action Date (MANDATORY

ACTION CODE): Date suspended

lands are segregated to new case;

DE 1775/2910 Action Code 011;

Action Remarks: Enter "INTO"

serial number of new case.

(Use code **only** on parent case).

16b. Enter Action Date (MANDATORY

ACTION CODE): Date suspended

lands are segregated into new

case; DE 1775/2910 Action Code

571; Action Remarks: Enter

"OUT OF" serial number of parent

case. (Use **only** on new case;

also enter DE 1775 Action Code

001/DE 2910 Action Code 387 (case

established), DE 1775 Action Code

041/DE 2910 Action Code 128

(presale offer), etc., on new

case.)

80

Responsible

Official Step Action Keywords

Adjudication 17. OPTION 2:

17a. After applying the minimum PENDING

acreage rule, put the issuance of POSTSALE

a lease for the postsale lands in OFFER

suspended status (the 60-day time

limit for issuance of a lease

will not apply for the lands in

this case since "all else is **not**

regular," due to the combination

of the presale- and postsale-type

lands in the offer).

17b. Issue a notice suspending the

postsale-type portion of offer

(see Illustrations 22 and 23).

17c. Post the presale lands for

competitive sale.

17d. If no bid received at the

auction, issue one lease to

include both presale and postsale

lands.

17e. If the presale lands in the offer

sold competitively, issue a lease

only for the postsale lands.

NOTE: Option 2 should be used

only if the offeror

requests, or if the time

and effort required to

exercise this option in

Adjudication is less

than that involved in

implementing Option 1.

18. Forward worksheet describing presale- PRESALE LANDS

type lands, submitted as part of the PROCESSED FOR

offer under 43 CFR 3110.1(a)(1), for COMPETITIVE

inclusion in a future competitive sale SALE

preliminary parcel list and sale

notice.

81

Responsible

Official Step Action Keywords

19. Configure lands into a parcel in

accordance with Handbook 3120-1, but do

not combine these lands with other

available lands.

20. On Notice of Competitive Lease Sale,

note all sale parcels that have presale offers.

21. Hold competitive lease sale.

22. Issue noncompetitive leases, if no bid was received, using either Option 1 or Option 2 to process the lands (see Section X.B, above, to process toward lease issuance).

23. Reject nonpriority offers in accordance with Section X.C, above.

24. Check oil and gas plats/status records CHECK FOR for units/CA's that may have been UNITS/CA'S approved since the sale notice was officially posted.

25. If lands in the offer are within the LANDS WITHIN boundaries of a unit, offeror must UNIT/UNIT submit either evidence of joining the JOINDER unit or a letter from the unit operator stating that the unit operator has no objection to lease issuance without unit joinder (see Illustrations 11 and 12).

26. If lands in the offer are within the LANDS WITHIN boundaries of a CA, offeror must submit CA - JOINDER evidence of joinder. Unlike Federal REQUIRED units, lessees cannot operate independently in a Federal CA.

C. Action for Processing Offer for Approval

Responsible

Official Step Action Keywords

Adjudication 1. Prepare offer form (Form 3100-11) for PROCESS

lease issuance using either Option 1 or LEASE OFFER

Option 2 in Step XI.B.14, above. Show

land description on lease form by

typing it in Item 3, or by an attach-

ment to the lease form, if land

description of the lease is different

than that indicated in Item 2 on the

form.

2. Attach required stipulations and

Notice to Lessee concerning Mineral

Leasing Act (MLA) Section 2(a)(2)(A)

restrictions with respect to assign-

ments/transfers of oil and gas leases

from certain Federal coal lease holders

(see Illustration 14).

3. When a stipulation is added, deleted, STIPULATION

or revised after the official posting CHANGES,

of the sale notice but prior to the ADDITIONS, AND issuance of a noncompetitive lease, DELETIONS

use the following steps:

3a. If the stipulation revision,

addition, or deletion would

increase the value of the parcel,

withdraw the parcel from the sale notice and readvertise for offering at a future auction in a subsequent sale notice with all the correct stipulations.

3b. Return any postsale noncompetitive offer with all monies refunded (first year's advance rental **and** filing fee).

83

Responsible

Official Step Action Keywords

3c. If it is determined that the stipulation change would **not** increase the value of the parcel, the lands continue to be available for noncompetitive offer during the 2-year period. However, **before** issuing a noncompetitive lease, post a notice for 45 days in the State Office Public Room and at the appropriate local BLM Field Office to advise the public of the specific stipulation change, addition, or deletion.

3d. If no adverse public response is received during the 45-day period,

send a notice to the offeror
providing a 30-day period to sign
the specific changed or added
stipulation (see Illustration 15).

3e. If the offeror accepts the revised
or added stipulation, continue to
process the lease to issuance as
described below.

3f. If the offeror refuses to sign the STIPULATION
stipulation change, refund **all** CHANGE REFUSED -
monies (first year's advance REFUND ALL MONIES
rental **and** filing fee).

3g. If a second priority offer exists,
provide that party 30 days by
notice in which to sign and accept
the revised or added stipulation.

3h. If all the remaining offerors
refuse to accept the lease, the
lands remain available for
noncompetitive leasing with the
changed stipulation for the
remainder of the 2-year period.

84

Responsible

Official Step Action Keywords

3i. If adverse public response is
received, handle the response as

if it were a protest. That is, if the BLM agrees with the adverse response, the BLM is to withdraw the land. Refund to the offeror **all** monies, including the \$75 filing fee, and give the offeror the right of appeal.

3j. If the adverse response (protest) is denied, offer the land to the offeror with the changed stipulation as described above, and give the protestant the right of appeal.

3k. If an appeal is filed, notify the offeror of the pending appeal.

4. If a unit/CA is involved and notice has been received of acceptance of joinder, lease may be issued.

4a. If part of lands in the offer are outside the boundary of a unit/CA that was approved **after** the sale notice was officially posted, segregate into two parcels and request joinder for the parcel that is within the agreement boundaries (see Step VIII.A.13g, above, and Illustration 11).

5. If additional rental is required

(nominal rental deficiency), prepare a decision requesting the necessary amount (see Section V, above, and Illustration 5.)

ALMRS Entry 6. Enter Action Date: Date monies AUTOMATED requested; DE 1775 Action Code 082/DE NOTATION 2910 Action Code 106; Action Remarks: Enter amount and purpose.

7. Enter Action Date: Date monies received; DE 1775 Action Code 083/DE 2910 Action Code 392; Action Remarks: Enter amount and purpose. 85

Responsible

Official Step Action Keywords

Adjudication 8. Stamp "Original" or "File" on the LEASE COPIES originally signed lease offer for the DESIGNATED case file.

8a. Stamp "Lessee" on the first copy of lease offer. Stamp second copy for the SMA, as appropriate.

9. After receipt of **total** first year's ACCOUNTING rental due, complete accounting ADVICE advice (see Illustration 16). If COMPLETED lands are located in two or more counties, enter exact acreage located in each county.

10. Prepare routing slip and records

worksheet. Route lease for signature

by the BLM authorized officer.

Signing 11. Sign the original of lease Form 3100-11

Official and use signature stamp on lessee/SMA

copies of lease form.

Adjudication 12. Make distribution in accordance with

State Office procedures, e.g., one copy

to SMA, if any (mandatory), and one

copy to Field Office Operations.

13. If, after a lease is signed, issued STIPULATIONS

and mailed to the lessee, it is INADVERTENTLY

discovered that some or all of the NOT ATTACHED

lease stipulations that were identified TO LEASE

in the Notice of Competitive Lease Sale

as being applicable to the parcel were

not attached as part of the lease, send

the stipulations by a notice to the

lessee, ensuring that a copy of the

notice and stipulations are placed in

the case file. The notice to the

lessee is simply a courtesy since the

stipulations are binding, and the

lessee is responsible for being fully

aware of the stipulations on the lands

in the parcel as advertised in the

sale notice. (See 43 CFR 3101.1-3.)

Responsible

Official Step Action Keywords

ALMRS Entry 14. Update lease issuance (see Illustration AUTOMATED

19): NOTATION

14a. For that portion of offer that

has already been through the

competitive sale process:

Enter Action Date (MANDATORY

ACTION CODE): Date postsale

2-year offer received; DE 1775

Action Code 040/DE 2910 Action

Code 135.

14b. For that portion of offer that

must be processed through the

competitive sale process:

Enter Action Date (MANDATORY

ACTION CODE): Date presale offer

received; DE 1775 Action Code

041/DE 2910 Action Code 128.

14c. Enter Action Date (MANDATORY

ACTION CODE): Date lease signed;

DE 1775 Action Code 176/DE 2910

Action Code 237.

14d. Enter Action Date (MANDATORY

ACTION CODE, WHEN APPLICABLE FOR

FRACTIONAL U.S. INTEREST LANDS):

Enter date lease signed (or offer

was received); DE 1775 Action

Code 448/DE 2910 Action Code 527;

Action Remarks: Percentage of

Federal mineral ownership when

U.S. mineral interests are less

than 100%.

14e. Enter Action Date (MANDATORY

ACTION CODE IF LANDS ARE IN MORE

THAN ONE COUNTY): Enter date

lease signed and lands are in two

or more counties; DE 1775 Action

Code 417/DE 2910 Action Code 523;

Action Remarks: Enter acres and

State and county codes from

DE 0002.

87

Responsible

Official Step Action Keywords

14f. Enter Action Date (MANDATORY

ACTION CODE): Effective date of

lease; DE 1775 Action Code 225/DE

2910 Action Code 868.

14g. Enter Action Date (MANDATORY

ACTION CODE): Enter 12 1/2

percent royalty rate; DE 1775

Action Code 102/DE 2910 Action

Code 530.

14h. For acquired lands mineral lease: AUTOMATED

Enter Action Date (MANDATORY NOTATION -

ACTION CODE FOR ACQUIRED LANDS FUND SYMBOL

MINERALS): Enter fund symbol; FOR ACQUIRED

DE 1775 Action Code 444/DE 2910 LANDS MINERALS

Action Code 496; Action Remarks:

Fund symbol argument code from DE

3042; OPTIONAL: Also enter

Treasury fund symbol, including

proclaimed unit number (refuge

code) in Action Remarks.

NOTE: See Appendix 1 for a

listing of the Treasury

Symbols.

14i. Enter Action Date (MANDATORY

ACTION CODE): Date lease

expires; DE 1775/2910 Action

Code 763.

Adjudication 15. Send case file to Title Records through

Docket for notation of appropriate

records.

16. Send accounting advice(s) to Accounts.

Title 17. Note oil and gas plat /status records RECORDS

Records and HI. NOTATION

18. Return case file to Docket.

Docket 19. File case file with active cases.

D. Rejection of Nonpriority Offers

Responsible

Official Step Action Keywords

Adjudication 1. If more than one offer for the same OFFERS

land is received at the same time, REJECTED

reject by decision those offers not in

priority. Reject any offers in whole

or part for other reasons (see Illus-

trations 20 and 21).

1a. If applicable, issue a notice

suspending a portion of offer (see

Illustrations 22 and 23).

2. Send case file with decision and/or

notice to signing official.

3. When decision is signed, send by

certified mail.

Adjudication 4. If no appeal is filed, close case file CLOSE CASE

at end of the 30-day appeal period

(plus a 10-day grace period for appeal

(see 43 CFR 4.401(a)).

5. Complete the accounting advice to

refund first year's advance rental and

send to Accounts.

ALMRS Entry 6. Update entry showing rejection: AUTOMATED

NOTATION

6a. Enter Action Date (MANDATORY

ACTION CODE): Date offer rejected;

DE 1775 Action Code 006/DE 2910

Action Code 125; Action Remarks:

Enter reason for rejection.

6b. Enter Action Date (MANDATORY

ACTION CODE): Date case closed;

DE 1775/2910 Action Code 970.

Adjudication 7. Send case file to Title Records for RECORDS

records notation, as applicable. NOTATION

8. Route case file to Docket.

Docket 9. File case file with closed files.

89

Keywords

XII. Lease Terms

A. Duration of Lease

All noncompetitive leases are issued for a primary term of PRIMARY TERM
10 years. These leases are considered issued when signed NONCOMPETITIVE
by the BLM authorized officer. LEASE

B. Dating of Leases

Leases, except future interest leases, are effective as of LEASE
the first day of the month following the date the leases EFFECTIVE
are issued. However, if a written request is received DATE
from the offeror prior to the date that the BLM authorized
officer signed the lease form, the authorized officer may
make a lease effective the first day of the month within
which it is issued.

Future interest leases are effective as of the date the FUTURE
mineral interests vest in the United States. (See Manual INTEREST

DATE

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91

Keywords

XIII. Withdrawal of Offer

A. Requirements

An offer filed under 43 CFR 3110 may be withdrawn, in WITHDRAWAL OF whole or in part, if received in the proper BLM Office NONCOMPETITIVE as follows. LEASE OFFER

1. Presale Offer Under 43 CFR 3110.1(a)(1)

A presale offer filed prior to the competitive offering PRESALE of lands available under 43 CFR 3110.1(a)(1) may be OFFERS withdrawn at any time prior to signature of the noncompetitive lease by the BLM authorized officer. For example, if the offeror feels that the stipulations stated in the Notice of Competitive Lease Sale are too stringent, or has decided against obtaining a lease, the offeror may withdraw the presale offer.

2. Postsale Offer Under 43 CFR 3110.1(b)

A postsale offer filed on lands that have been offered POSTSALE competitively and received no bid may be withdrawn only OFFERS after 60 days from the date of filing of such offer.

3. Partial Withdrawal - Public Domain Minerals

Offer

If a public domain minerals offer is partially withdrawn, PARTIAL the lands retained in the offer must total: WITHDRAWAL -

PUBLIC DOMAIN

a. In the lower 48 States, 640 acres or MINERALS OFFER one full section, whichever is larger, or must include all available lands within a section where there are no contiguous lands available.

b. In Alaska, 2,560 acres or four full contiguous sections, whichever is larger, or must include all available lands within the four sections where there are no contiguous lands available.

92

B. Action on Offer Withdrawal

Responsible

Official Step Action Keywords

Receiving 1. Receive noncompetitive offer withdrawal WITHDRAWAL OF

Official or partial offer withdrawal request. OFFER RECEIVED

2. Forward to Adjudication.

Adjudication 3. Request case file from Docket and

verify that person signing the

withdrawal request is the offeror or

someone authorized to sign on behalf

of the offeror.

3a. Note that postsale offers may be

withdrawn only after 60 days from

the date of filing of such offer.

Withdrawal requests received prior

to 60 days from receipt of the

offer shall be rejected with the

offer remaining in force for
processing toward lease issuance.

4. If withdrawal request is acceptable,

process as follows:

4a. If a withdrawal of entire offer, ENTIRE
verify the accuracy of the WITHDRAWAL
withdrawn land.

4b. Prepare accounting advice to
refund all advance rental. Note
under "Remarks" on accounting
advice, "Offer withdrawn and
closed." Retain one copy of
accounting advice in case file and
forward one copy to Accounts.

4c. If a partial withdrawal of offer, PARTIAL
verify that withdrawn lands and WITHDRAWAL
retained lands and acreages are
correct. Check that acreage to be
retained in offer meets minimum
acreage requirements.

4d. Authorize refund of first year's
advance rental for withdrawn
acreage if all else is regular.

93

Responsible

Official Step Action Keywords

4e. Notify other surface managing OTHER SMA

agencies or BLM offices that offer INVOLVEMENT

has been withdrawn in whole or

part, and whether a report is

still required from that office

for the remaining lands, as

applicable.

4f. Note any conflicting oil and gas NOTE

case file(s) to reflect this CONFLICTING

withdrawal action. CASE FILE

ALMRS Entry 5. Update for entire offer withdrawal: AUTOMATED

NOTATION

Enter Action Date (MANDATORY ACTION

CODE): Date withdrawal filed; DE 1775

Action Code 009/DE 2910 Action Code

130.

5a. Enter Action Date (MANDATORY

ACTION CODE): Date Case Closed;

DE 1775/2910 Action Code 970.

6. Update for partial withdrawal:

Enter Action Date (MANDATORY ACTION

CODE): Date partial withdrawal filed;

DE 1775 Action Code 010/DE 2910 Action

Code 131. Also, update offer's land

description and acreage.

Title 7. Note oil and gas plat/status records RECORDS

Records (or other appropriate records), as NOTATION

appropriate.

8. Return case file to Docket if all of the withdrawn lands have already been offered competitively within the last 2 years.

Docket 9. If entire withdrawal, close case file.

Adjudication 10. OPTIONAL: Include lands that have **not** been processed for competitive sale within the past 2 years on the preliminary list for future competitive auction.

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95

Keywords

XIV. Amendment to Lease

After the competitive leasing process has concluded in AMENDMENT accordance with 43 CFR Part 3120, and a noncompetitive TO LEASE lease is issued for only part of the lands described in a lease offer filed in accordance with 43 CFR 3110.1, the original lease may be amended to include any lands erroneously omitted. The offeror/lessee may elect to receive a separate lease in lieu of an amendment, unless a withdrawal is properly received in writing in the proper BLM office prior to issuance of the lease amendment. The annual rental rate and the primary lease term for the lands added by a lease amendment are to be the same as if the lands had been included in the original lease when issued.

A. Processing an Amendment to a Lease

If the lands erroneously omitted from the lease are identified within the same lease year in which the original lease was issued, and the offeror does not request a separate lease, the BLM authorized officer is to execute an Oil and Gas Lease Amendment (see Illustration 24). No action or consent is required of the offeror with regard to the lease amendment. If more than one lease amendment is issued, the amendments shall be numbered consecutively.

Responsible

Official Step Action Keywords

ALMRS Entry 1. Enter Action Date (MANDATORY ACTION AUTOMATED

CODE): Date suspended action is NOTATION

lifted; DE 1775 Action Code 316/DE

2910 Action Code 678; OR

2. Remove DE 1775 Action Code 008/DE 2910

Action Code 127 (action suspended).

3. Enter Action Date (MANDATORY ACTION

CODE): Date lease amendment issued;

DE 1775 Action Code 607/DE 2910 Action

Code 238; Action or General Remarks:

Explanation for lease amendment.

96

Keywords

B. Processing a Separate Lease in Lieu of a Lease

Amendment

If the offeror elects to receive a separate lease for the SEPARATE LEASE lands omitted from the original lease, the election to IN LIEU OF

receive the separate lease in lieu of the lease amendment LEASE AMENDMENT must be received in a signed statement from the offeror, accompanied by a new lease offer submitted on the current BLM-approved form. The new lease offer must describe the omitted lands remaining in the original lease offer. No new filing fee is to be required with such an offer, and the first year's advance rental held in connection with that portion of the original lease offer is to be applied to the new offer. A new serial number is assigned and is to be cross-referenced to the original lease. A copy of the original lease offer and accounting advice are to be placed in the new lease case file. When such a separate lease is issued, it is dated in accordance with 43 CFR 3110.3-2 (see Section XII.B, above).

Responsible

Official Step Action Keywords

ALMRS Entry 1. Enter Action Date (MANDATORY ACTION AUTOMATED

CODE): Date separate lease NOTATION

established; DE 1775 Action Code 001/DE

2910 Action Code 387; Action Remarks:

Enter "AMENDMENT TO (serial number of original lease).

2. Enter Action Date (MANDATORY ACTION

CODE): Date lease signed; DE 1775

Action Code 176/DE 2910 Action Code

237.

3. Enter Action Date (MANDATORY ACTION

CODE, WHEN APPLICABLE FOR FRACTIONAL

U.S. INTEREST LANDS): Enter date lease

signed; DE 1775 Action Code 448/DE 2910

Action Code 527; Action Remarks:

Percentage of Federal mineral ownership

when U.S. mineral interests are less

than 100%.

4. Enter Action Date (MANDATORY ACTION

CODE IF LANDS ARE IN MORE THAN ONE

COUNTY): Enter date lease signed and

lands are in two or more counties; DE

1775 Action Code 417/DE 2910 Action

Code 523; Action Remarks: Enter acres

and State and county codes from DE 0002. 97

Responsible

Official Step Action Keywords

5. Enter Action Date (MANDATORY ACTION

CODE): Effective date of lease; DE

1775 Action Code 225/DE 2910 Action

Code 868.

6. Enter Action Date (MANDATORY ACTION

CODE): Enter 12 1/2 percent royalty

rate; DE 1775 Action Code 102/DE 2910

Action Code 530.

7. For acquired lands mineral lease:

Enter Action Date (MANDATORY ACTION

CODE FOR ACQUIRED LANDS MINERALS):

Enter fund symbol; DE 1775 Action Code

444/DE 2910 Action Code 496; Action

Remarks: Fund symbol argument code
from DE 3042; OPTIONAL: Also enter
Treasury fund symbol, including
proclaimed unit number (refuge code)
in Action Remarks.

NOTE: See Appendix 1 for a listing
of the Treasury Symbols.

8. Enter Action Date (MANDATORY ACTION
CODE): Date lease expires;
DE 1775/2910 Action Code 763.

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99

Keywords

XV. Noncompetitive Future Interest Offers

This section of the Handbook provides guidance and FUTURE
procedures for adjudicating and issuing noncompetitive INTEREST
future interest oil and gas leases, and should be used in OFFER
conjunction with Manual Section 3110.9 and Handbook 3120-1,
Section III.A.

A. Application

Because no lease may be issued under the Reform Act without
first being offered through the competitive sale process,
the present interest holder may gain a priority to a
Federal future interest lease for the lands involved by:
(1) making a successful competitive bid over any other

applicant's noncompetitive presale offer, whose offer is nullified by the competitive bid, or (2) being the priority presale offeror if the parcel fails to receive a bid at the oral auction (thereby nullifying the ability of any other party to obtain a postsale noncompetitive offer).

A future interest offer to lease must be made on the current BLM-approved lease offer Form 3100-11 or on unofficial copies of the current form. Future interest offers may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

100

B. Action for Receiving Application

Responsible

Official Step Action Keywords

Receiving 1. Receive offer Form 3100-11. Check that FUTURE INTEREST

Official offer is on current form and correct OFFER FILED

number of copies (original and two) are

filed, with \$75 filing fee. (See

43 CFR 3103.2-1 and 3103.2-2, Manual

Section 3110.42, and Section V, above.)

2. Date and time stamp at least one copy

of offer form, preferably the copy with

the original signature (see Section

III.F, above).

3. Assign serial number and validate

filing fee.

4. Prepare accounting advice and place two copies (green and goldenrod) in case file.

4a. Note that **no** rental shall be due to the U.S. prior to the vesting of the oil and gas rights in the U.S.

5. Send case file through Docket to official responsible for ALMRS Entry.

ALMRS Entry 6. The following reflects the most common AUTOMATED action code(s) to be utilized. NOTATION

Reference is to be made to the current Data Standards for Oil and Gas Lease Cases and the current Data Element Dictionary for additional requirements.

6a. Establish the case in ALMRS (Case Type 311123 or Case Type 311124).

6b. Enter Action Date (MANDATORY ACTION CODE): Date future interest offer received; DE 1775 Action Code 001/DE 2910 Action Code 124.

7. Send case file to Title Records, as appropriate, for notation on oil and gas plats/status records. 101

Responsible

Official Step Action Keywords

Title 8. Note future interest offer on oil and RECORDS

Records gas plats/status records (or other NOTATION appropriate records) and file a copy

in the case file.

9. Route case file to Adjudication through

Docket.

ALMRS Entry 10. If all or part of lands are a presale AUTOMATED

offer: NOTATION

Enter Action Date (MANDATORY ACTION

CODE): Date presale future interest

offer received; DE 1775 Action Code

041/DE 2910 Action Code 128.

11. Enter Action Date (MANDATORY ACTION

CODE, WHEN APPLICABLE): Enter date

offer is received; DE 1775 Action Code

448/DE 2910 Action Code 527; Action

Remarks: Percentage of Federal mineral

ownership when U.S. mineral interests

are less than 100%.

102

C. Action on Lease Offer

Responsible

Official Step Action Keywords

Adjudication 1. Check case file for the following: FUTURE

INTEREST

1a. Proper \$75 filing fee submitted. OFFER

ADJUDICATED

1b. Offer is filed on the current lease form (Form 3100-11), with correct number of copies (original and two copies).

1c. Note that **no** rental or royalty shall due to the U.S. prior to the vesting of the oil and gas rights in the U.S. However, if the first year's advance rental has been submitted with the future interest offer, the rental is to be retained in the BLM suspense account during the processing of the lands for the competitive sale process.

1d. Verify that vesting date is correct.

1e. Check for conflicts and/or existing private leases on the lands that will vest to the U.S. that predate the date the U.S. will acquire the minerals (see Handbook 3120-1, Section III.A).

1f. Check information provided by applicant giving the name and address of the SMA, if known.

Note that failure to provide this

information shall **not** result in a

loss of priority of the offer.

1g. Check for proper legal land

description and any facts

concerning any contracts/leases or

agreements for actual or potential

development of the lands involved.

103

Responsible

Official Step Action Keywords

1h. If the lands are acquired, request ACQUIRING

a title report (see Illustration AGENCY CONSENT

25), consent, and stipulations TO LEASE

from acquiring agency.

1i. If the SMA is the Forest Service,

consent to lease also must be

obtained for public domain

minerals as well as acquired lands

minerals.

1f. Include lands in a parcel or

parcels on the competitive sale

list, in accordance with Handbook

3120-1. Indicate on competitive

sale notice those parcels having

presale offers.

104

D. Action for Processing Offer for Approval

Responsible

Official Step Action Keywords

Adjudication 1. If the acquiring agency agrees to LEASE FORMS

leasing, and if no bid was received for AND

the parcel at the oral auction, attach STIPULATIONS

stipulations to the lease form (Form

3100-11).

2. Attach the Notice to Lessee concerning

MLA Section 2(a)(2)(A) to lease form.

3. Complete the lease form to issue the

future interest noncompetitive lease.

3a. Check that "Acquired" box is

marked, and show the percent of

United States interest under Item

2.

3b. Complete Item 3 on lease form from

worksheet, if different from land

description in offer submitted.

3c. At bottom of lease form, check the

box for "Noncompetitive lease (10

years)," and check "Other,"

entering "Future interest lease"

(see Illustration 26).

4. When a stipulation is added, deleted, STIPULATION

or revised after the official posting CHANGES,

of the sale notice but prior to the ADDITIONS, AND

issuance of a noncompetitive lease, use DELETIONS

the following steps:

4a. If the stipulation revision, addition, or deletion would **increase** the value of the parcel, withdraw the parcel from the sale notice and readvertise for offering at a future auction in a subsequent sale notice with all the correct stipulations.

4b. Return any postsale noncompetitive offer with **all** monies refunded (first year's advance rental (if remitted) **and** filing fee). 105

Responsible

Official Step Action Keywords

4c. Any presale noncompetitive offer must be held in pending status until conclusion of the future oral auction offering the parcel.

4d. If it is determined that the stipulation change would **not** increase the value of the parcel, the lands continue to be available for noncompetitive offer during the 2-year period if a presale offer had not been filed. However, **before** issuing a noncompetitive

future interest lease, post a notice for 45 days in the State Office Public Room and at the appropriate local BLM Field Office to advise the public of the specific stipulation change, addition, or deletion.

4e. If no adverse public response is received during the 45-day period, send a notice to the offeror providing a 30-day period to sign the specific changed or added stipulation (see Illustration 15).

4f. If the offeror accepts the revised or added stipulation, continue to process the lease to issuance as described below.

4g. If the offeror refuses to sign the STIPULATION stipulation change, refund **all** CHANGE REFUSED - monies (first year's advance REFUND ALL MONIES rental (if remitted) **and** filing fee).

4h. If a second priority offer exists, provide that party 30 days by notice in which to sign and accept the revised or added stipulation.

Responsible

Official Step Action Keywords

4i. If all the remaining offerors refuse to accept the lease, the lands remain available for noncompetitive leasing with the changed stipulation for the remainder of the 2-year period.

4j. If adverse public response is received, handle the response as if it were a protest. That is, if the BLM agrees with the adverse response, the BLM is to withdraw the land. Refund to the offeror **all** monies, including the \$75 filing fee, and give the offeror the right of appeal.

4k. If the adverse response (protest) is denied, offer the lease to the offeror with the changed stipulation as described above, and give the protestant the right of appeal.

4l. If an appeal is filed, notify the offeror of the pending appeal.

5. If unit/CA is involved and notice has been received of acceptance of joinder, a lease may be issued.

5a. If part of lands in offer are outside the boundary of a unit/CA that was approved **after** the sale notice was officially posted, segregate into two parcels and request joinder for the parcel that is within the agreement boundaries (see Step VIII.A.13g, above, and Illustration 11).

5b. If the future interest offeror is UNIT JOINDER unable to obtain joinder from the CANNOT BE unit operator after an extended OBTAINED time period, request the offeror to provide the reasons for failure to join the unit.

107

Responsible

Official Step Action Keywords

5c. The BLM authorized officer responsible for review and approval of unit actions must determine, based on the information submitted by the offeror, whether the lease can be operated independently of the unit.

If the lease can operate independently, the future interest lease

can be issued without unit joinder.

5d. Where the terms of the private unit agreement are in conflict with Federal regulations, the Federal regulations shall prevail.

6. Issue future interest lease to be effective the day of the month when the mineral interests vest in the United States.

6a. Where the U.S. owns both a present PRESENT AND fractional interest and a future FUTURE fractional interest of the FRACTIONAL minerals in the same tract, the INTEREST lease, when issued, shall cover **both** the present and future interest in the lands. The effective date and primary term of the present interest lease is unaffected by the vesting of a future fractional interest. A lease for the future fractional interest, when such interest vests to the United States, shall have the same primary term and anniversary date as the present fractional interest lease.

7. Complete the accounting advice: ACCOUNTING

ADVICE -

7a. Enter the proper coding for the FUTURE INTEREST lease anniversary date, which is LEASE IN the date the minerals vest in the MMS-DMD U.S. (see Illustration 27).

7b. Enter the correct date for the lease expiration date, 10 years later.108

Responsible

Official Step Action Keywords

7c. Indicate the vesting date of the mineral interests in the "Remarks" space of the accounting advice.

7d. Note that the MMS automated system now accepts a first-year rental payment for a future interest lease in advance of the vesting date of the minerals. Accordingly, forward the accounting advice for the first year's advance rental (if paid) at the time of issuance of the future interest lease.

Note in the "Remarks" space for the MMS-DMD to apply the rental.

In this case, the MMS-DMD will begin sending the courtesy billing notice for the second lease year's

rental due. Otherwise, the
billing notice will be sent by the
MMS-DMD for the first year's
rental that is due upon the
vesting date of the minerals in
the U.S.

8. Stamp "Original" or "File" on the LEASE COPIES
originally signed lease offer form for DESIGNATED
the case file.

8a. Stamp "Lessee" on the first copy
of lease offer. Stamp second copy
for the SMA.

9. Prepare routing slip and records
worksheet. Route lease for signature
by the BLM authorized officer.

Signing 10. Sign the original of lease Form 3100-11
Official and use signature stamp on lessee/SMA
copies of lease form.

Adjudication 11. Make distribution in accordance with
State Office procedures, with one copy
to SMA and one copy to Field Office
Operations.

109

Responsible

Official Step Action Keywords

12. If, after a lease is signed, issued, STIPULATIONS
and mailed to the lessee, it is INADVERTENTLY

discovered that some or all of the NOT ATTACHED
lease stipulations that were identified TO LEASE
in the Notice of Competitive Lease Sale
as being applicable to the parcel were
not attached as part of the lease, send
the stipulations by a notice to the
lessee, ensuring that a copy of the
notice and stipulations are placed in
the case file. The notice to the
lessee is simply a courtesy since the
stipulations are binding and the lessee
has full awareness of the stipulations
placed on the parcel as it was
advertised in the sale notice.

(See 43 CFR 3101.1-3.)

ALMRS Entry 13. Update lease issuance: AUTOMATED

NOTATION

13a. Enter Action Date (MANDATORY

ACTION CODE): Date lease signed;

DE 1775 Action Code 176/DE 2910

Action Code 237.

13b. ACTION CODE, WHEN APPLICABLE FOR

FRACTIONAL U.S. INTEREST LANDS):

Enter date lease signed (or offer

was received); DE 1775 Action

Code 448/DE 2910 Action Code 527;

Action Remarks: Percentage of

Federal mineral ownership when

U.S. mineral interests are less

than 100%.

13c. Enter Action Date (MANDATORY

ACTION CODE IF LANDS ARE IN MORE

THAN ONE COUNTY): Enter date

lease signed and lands are in two

or more counties; DE 1775 Action

Code 417/DE 2910 Action Code 523;

Action Remarks: Enter acres and

State and county codes from

DE 0002.

13d. Enter Action Date (MANDATORY

ACTION CODE): Effective date of

lease; DE 1775 Action Code 225/DE

2910 Action Code 868. 110

Responsible

Official Step Action Keywords

13e. Enter Action Date (MANDATORY

ACTION CODE): Enter 12 1/2

percent royalty rate; DE 1775

Action Code 102/DE 2910 Action

Code 530.

13f. For acquired lands mineral lease: AUTOMATED

Enter Action Date (MANDATORY NOTATION -

ACTION CODE FOR ACQUIRED LANDS FUND SYMBOL

MINERALS): Enter fund symbol; FOR ACQUIRED

DE 1775 Action Code 444/DE 2910 LANDS MINERALS

Action Code 496; Action Remarks:

Fund symbol argument code from DE

3042; OPTIONAL: Also enter

Treasury fund symbol, including

proclaimed unit number (refuge

code) in Action Remarks.

NOTE: See Appendix 1 for a

listing of the Treasury

Symbols.

13g. Enter Action Date (MANDATORY

ACTION CODE): Date minerals vest

in the U.S.; DE 1775 Action Code

587/DE 2910 Action Code 884;

Action Remarks: Fractional

percent of U.S. ownership (when

applicable).

13h. Enter Action Date (MANDATORY

ACTION CODE): Date lease

expires; DE 1775/2910 Action

Code 763.

Adjudication 14. Send case file to Title Records through

Docket for notation of appropriate

records.

15. Send accounting advice to Accounts.

Title 16. Note future interest lease issuance RECORDS

Records on oil and gas plat/status records and NOTATION

HI (or other appropriate) records.

17. Return case file to Docket.

Docket 18. File case file with active cases. 111

Responsible

Official Step Action Keywords

NOTE: All future interest noncompetitive PRE-REFORM ACT

lease offers filed prior to the "GRANDFATHERED"

Federal Onshore Oil and Gas Leasing FUTURE INTEREST

Reform Act are "grandfathered," and LEASE OFFERS

each offer must be processed under

the appropriate regulations that were

in effect at the time the offer was

filed.

Glossary

Glossary of Terms

- P -

parcel integrity period: that period of time, beginning on the first business day following the end of the competitive oral auction and continuing for the remainder of that same month. Offers filed in the proper BLM office during this period must be for a single entire parcel and must describe the lands by the specific parcel number appearing in the Notice of Competitive Lease Sale.

postsale offer: a filing submitted to the proper BLM office for lands that have been offered competitively under 43 CFR Part 3120 and for which no bids were received. The filing period begins on the first business day following the last day of the competitive oral auction. Such lands shall be available for noncompetitive offer for a period of 2 years. A

noncompetitive lease may be issued from an offer for such lands properly filed any time within the 2-year noncompetitive leasing period.

presale offer: a filing submitted to the proper BLM office for a noncompetitive lease made prior to the competitive offering of the described lands after January 2, 1989, in accordance with 43 CFR 3110.1(a)(1). A presale offer cannot include lands that are in the 1-year period commencing upon expiration, termination, relinquishment, or cancellation of a lease, and cannot include lands that are contained in an officially posted Notice of Competitive Lease Sale. The preliminary sale notice list, which is made available in the Public Room of some BLM State Offices, is not considered to be an officially posted sale notice. For expired, terminated, relinquished, and cancelled leases, the 1-year period begins on the actual date of expiration, termination, relinquishment, or cancellation and not on the date when the records have been noted.