

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

April 11, 2002

In Reply Refer To:
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Instruction Memorandum No. **2002-143**
Expires: 09/30/2003

To: All Field Officials
From: Assistant Director, Minerals, Realty and Resource Protection
Subject: Competitive Sale of Public Lands

Program Area: Lands and Realty – Land Sales under Section 203 of the Federal Land Policy and Management Act (FLPMA).

Purpose: This Instruction Memorandum reinforces and clarifies the Bureau of Land Management (BLM) regulations and policy for sale of public lands.

Policy: The BLM's current policy and regulations in 43 CFR 2710.0-6 (c)(1-5) require the use of competitive sale procedures unless the authorized officer determines the public interest would best be served by modified competitive bidding or direct sale. In no case may land be sold for less than fair market value.

Environmental documents, decisions and notices prepared by the BLM must reference conformance with land use planning requirements and full consideration of the land sales criteria and competitive bidding procedures of Section 203 of FLPMA. The BLM authorized officer must also document the rationale for use of other than competitive bidding methods.

Particular care must be taken to fully document the decision and rationale for the use of a direct sale approach. Experience shows that even when the regulations appear to allow use of a direct sale approach it may be preferable to use modified competitive bidding. In most cases it will generate a more positive result. There are also benefits to competitive sales from the increased land sale receipts deposited into the Federal Land Disposal Account established under the authority of the Federal Land Transaction Facilitation Act (PL 106-248). Offices considering the direct sale of a parcel of public land to resolve trespass or title issues must limit the sale parcel to the smallest acreage or aliquot part. If disposal of additional acreage is justified, this additional acreage should be considered for competitive or modified competitive bidding. It is not

uncommon for the BLM to use competitive or modified competitive bidding even when the offered public lands have limited access and are surrounded by non-Federal lands. The BLM should include information concerning access and surrounding ownership in the Notice of Realty Action to help ensure prospective bidders are informed concerning these matters.

When BLM offers public land for sale it is required to receive not less than fair market value as determined by the Secretary of the Interior. If exceptional circumstances and compelling need warrant the conveyance of public lands at less than fair market value, the BLM may only make such conveyance when specifically authorized by Congress. All legislative proposals must be coordinated with the BLM State Office and the Washington Office Legislative Affairs staff.

In those situations where the BLM administers both surface and subsurface estate, the subsurface estate should be considered for sale at the same time as the surface. A preliminary mineral review, addressing the mineral potential of a tract, will reveal whether it would be appropriate to offer the subsurface for sale along with the surface. If it is determined that the mineral interest is appropriate for conveyance, the FLPMA Section 203 sale of the surface estate should be carried out concurrently with a FLPMA Section 209 conveyance of the mineral interest.

Regardless of whether the mineral estate will be retained or disposed in a public land sale, a mineral report is required. Realty and mineral specialists should coordinate as early in the process as possible to ensure timely completion of the mineral report.

Timeframe: This Instruction Memorandum is effective upon receipt.

Budget Impact: This Instruction Memorandum reinforces and clarifies existing policy related to the BLM land sale program and should have minimal impact on the budget.

Background: In September 2001 the General Accounting Office (GAO) published an Audit Report entitled "BLM and the Forest Service: Federal Taxpayers Could Benefit More From Land Sales"(GAO-01-882). Two recommendations in the audit report specifically relate to the BLM sale procedures.

1. "Require competitive sales unless field offices specifically demonstrate why a parcel should be sold noncompetitively."
2. "When the agency faces specific circumstances which it believes warrant selling a parcel for less than its appraised value, obtain special legislation applying to the specific case that authorizes the agency to do so."

In the BLM response to Congress regarding the GAO recommendations, BLM agreed to reinforce and clarify its policy for the sale of public lands. This Instruction Memorandum carries out this commitment.

Manual/Handbook Sections Affected: This Instruction Memorandum clarifies and reinforces policy guidance contained in the following BLM Manuals and Handbooks:

Manual 2710, Public Sales

Manual 2711, Public Sales Procedures

Coordination: This clarification was coordinated with Field and State Office Staffs involved in BLM's land sale program.

Contact: If you have any questions regarding this policy please contact Bob Barbour, (202) 452-7784.

Signed by:
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Directives forwarded to State Director, CA-930

4/12/02